

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LISA MENNINGER,

Plaintiff,

v.

PPD DEVELOPMENT, L.P.,

Defendant.

Civil Action No.
1:19-cv-11441-LTS

BEFORE THE HONORABLE LEO T. SOROKIN, DISTRICT JUDGE

JURY TRIAL
Day 8

Wednesday, March 29, 2023
8:53 a.m.

John J. Moakley United States Courthouse
Courtroom No. 13
One Courthouse Way
Boston, Massachusetts

Rachel M. Lopez, CRR
Official Court Reporter
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EXHIBIT

None

P R O C E E D I N G S

(In open court.)

THE DEPUTY CLERK: The United States District Court for the District of Massachusetts is now in session, the Honorable Leo T. Sorokin presiding.

THE COURT: Please be seated.

Okay. So just in terms of scheduling, I think that's the only issue Kellyann said.

Where are we? We have a little more to read of Mason Menninger, right?

MR. HANNON: We're close to done. Yeah. I understand the defense would like to take one of their witnesses out of order this morning, which is fine on my end.

MS. MANDEL: Not necessarily out of order. Just, as we had discussed yesterday, after -- I think we can complete the Mason Menninger read-on. And then after that it was just to make sure Mr. McKinnon needs to be the next witness just because of his flights.

MR. HANNON: Okay. So in terms of the schedule for the day, we're going to finish Mason Menninger. We're then going to take Mr. McKinnon. We will then do --

THE COURT: You're going to call McKinnon?

MR. HANNON: I will -- yeah.

THE COURT: You're just going to call him out of order.

1 MR. HANNON: Correct. I'm then going to call
2 Mr. Clendening.

3 THE COURT: Okay.

4 MR. HANNON: At that point, I'm going to rest,
5 subject to --

6 THE COURT: Subject to you calling your --

7 MR. HANNON: My economics excerpt tomorrow.

8 THE COURT: Who's coming tomorrow?

9 MR. HANNON: Correct.

10 THE COURT: Okay. And then who are you going to
11 call?

12 MS. MANDEL: And our -- and our witnesses have
13 really already been called, so our remaining witness will be
14 Dr. Martin Kelly, our psychiatric expert, who all -- because
15 of his schedule of patients and whatnot, is available to come
16 tomorrow morning. I understand Mr. Jonas will testify first
17 and then we'll call Dr. Kessimian.

18 THE COURT: Okay. All right. So you can rest, if
19 you wish, but what's -- I don't know that you -- you have to
20 rest then, because the next witness will be your witness.

21 MR. HANNON: Sure.

22 THE COURT: So we're likely to finish before
23 1 o'clock, is what you're telling me?

24 Will we finish those two witnesses by 1:00
25 tomorrow?

1 MS. MANDEL: I think so.

2 MR. HANNON: Probably.

3 MS. MANDEL: Your Honor, the one thing that we
4 spoke about just briefly, Dr. Kelly, he's the witness who
5 recently had surgery and is a little bit concerned about if
6 it will take some assistance to get to the witness stand, and
7 so working this -- we have spoken about it -- we're confident
8 we will be down before 1:00 tomorrow, if it would be possible
9 to take the morning break just after Mr. Jonas.

10 THE COURT: Sure.

11 MS. MANDEL: Break briefly for the restroom break
12 and then we can make sure that Dr. Kelly has no problem
13 getting --

14 THE COURT: How long do you think the first person
15 will be, Jonas?

16 MR. HANNON: 45 minutes.

17 THE COURT: And how long will you be with him?

18 MS. MANDEL: Probably about a half hour on our end,
19 Your Honor.

20 THE COURT: So an hour and a quarter. Okay. So
21 Kellyann, maybe the one thing to do is see if we can get the
22 refreshments and coffee and stuff for them a little earlier,
23 so that when we take the break at -- so that sounds like a
24 break between 10:00 and 10:30, depending on how it goes.

25 MS. MANDEL: And it's possible that it will be even

1 close to 11:00. It's just --

2 THE COURT: Right. But we'll get them early, so
3 that then if we go early -- right.

4 And then how long will Kelly be?

5 MR. CURRAN: Half hour, maybe.

6 THE COURT: And then?

7 MR. HANNON: Probably half hour, 45 minutes.

8 THE COURT: Okay. All right. Fine. Okay. I'm
9 fine with that.

10 So basically, this is what we will do. We'll
11 finish -- we'll go finish those witnesses you describe today,
12 essentially the read-in and the two other witnesses, and then
13 we'll be done for the day. We'll do the two witnesses
14 tomorrow. That will be all the evidence. The -- I will -- I
15 don't -- I can't do the charge conference today, because I
16 have a sentencing this afternoon that is going to take
17 awhile. And I'm going to -- and you haven't got the -- it's
18 not really fair for me to have the charge conference before
19 you've had an opportunity to read the instructions, it seems.
20 So I'm going to -- I will issue to you sometime today or this
21 evening the draft jury instructions in verdict form, and
22 you'll have them to chew over, and then we'll have the charge
23 conference tomorrow.

24 And give me one moment just to look. I'm thinking
25 that -- I think what I want to do is have the charge

1 conference tomorrow and close on Friday for two reasons.

2 It's a really important case to Dr. Menninger. It's a really
3 important case to PPD. You spent a lot of time preparing
4 this case. I don't really want to rush my response to your
5 comments, if any, to the jury instructions. I will remind
6 you that, in the last case I had, just last week, they had
7 zero, neither side. And -- but nonetheless, I recognize that
8 that's unlikely. And so I just want to have the chance --
9 there's, you know, somewhat complicated claims, and I want to
10 have the chance to thoughtfully respond, and it gives you
11 more time to prepare. And so then we'll come in Friday
12 morning and you'll do closing arguments. It means a little
13 bit of like potentially two short days for the jury, but I
14 think it's the only way to do it well, especially given other
15 criminal proceedings I have today and tomorrow in the
16 afternoons that I can't fairly move.

17 MS. MANDEL: And so in terms of charge conference,
18 you think --

19 THE COURT: Sometime tomorrow.

20 MS. MANDEL: Tomorrow afternoon.

21 THE COURT: And I'll tell you -- it just depends.
22 Honestly, I'm not sure when. Here's the constraints, it
23 depends on what time we finish. If we finish before
24 1 o'clock, we'll go right into it. The constraints I have is
25 I have a 2 o'clock sentencing. And so we'll do it -- if we

1 can do it -- but we will -- you need to eat lunch and I need
2 to eat lunch, so we'll at least have a half-hour break for
3 that. And so maybe we do it before the sentencing, maybe we
4 do it a little bit before. It depends when we finish,
5 otherwise we do it after.

6 MS. MANDEL: And Your Honor, just to make sure I
7 understand, we're talking about tomorrow, though? Not --

8 THE COURT: Right. Not today. We're not going to
9 have the charge conference today, because you don't have the
10 charge, and I have to do a little bit more. It's just about
11 done. And I'm not going to issue it and ten minutes later
12 have a charge conference, because that doesn't seem fair or
13 in the spirit of the rule. And then you'll just come back to
14 me, anyway, the next day. So might as well just do it the
15 next day.

16 Okay. Kellyann, go see if they're all here.

17 THE COURT: Just so you know, depending on how
18 tomorrow goes for your own planning, there's a chance that I
19 might start -- tell the jury to come at 9:30 or 10:00 if I --
20 so depending on when we have the charge conference and how
21 much there is and what -- so that -- if I thought I needed --
22 wanted a little more time to talk to you or something
23 before -- because how long do you think you're going to be in
24 your closes, roughly?

25 MR. HANNON: 40 minutes.

1 THE COURT: I'm not holding you right now, but a
2 ballpark.

3 MR. HANNON: 40, 45 minutes.

4 MS. MANDEL: Something similar on our end,
5 Your Honor.

6 THE COURT: All right. So even with all of that,
7 it's an hour and a half, roughly. And the charge, 45
8 minutes, I think, whatever. So there's plenty of time for
9 them to get it reasonably.

10 (The jury enters the courtroom.)

11 THE COURT: Good morning, ladies and gentlemen.
12 Everybody follow my instruction, no discussion, no
13 independent research? Good.

14 So just a couple quick points before we resume.
15 One is I told you you're going to get the case on Friday.
16 You will. I've been going over the schedule with the lawyers
17 just now. We're very much on track. And before you leave
18 today, I will give you all the details about the schedule.
19 But just to remind you, today is just 9:00 to 1:00.
20 Tomorrow -- today is 9:00 to 1:00 at the most. Tomorrow is
21 9:00 to 1:00 at the most. Friday you'll -- will be the end
22 of the case and you'll receive it for deliberations. Okay?

23 So when we broke, we were reading -- they were --
24 Ms. Mandel was asking the questions, and Mr. Watson, right?

25 MR. WATSON: Watson, yes.

1 THE COURT: Mr. Watson was being Mr. Menninger and
2 reading his answers and there's a bit more to that. So
3 they're going to continue that until they finish.

4 Go ahead.

5 MS. MANDEL: And Your Honor, we're just going to,
6 for context, go back a couple of questions, because we were
7 sort of in the middle.

8 THE COURT: That's fine.

9 The testimony of

10 **MASON MENNINGER**

11 having been duly sworn previously, was read into the record as
12 follows:

13 BY MS. MANDEL:

14 Q. "Did your daughter attend a private school in
15 Albuquerque?

16 A. "Eventually.

17 Q. "Does that mean that for a period of time your daughter
18 attended a public school in Albuquerque?

19 A. "Yes.

20 Q. "What is the name of the private school that she
21 attended?

22 A. "At which location?

23 Q. "Albuquerque.

24 A. "Albuquerque Academy.

25 Q. "For how many years did she attend Albuquerque Academy?

1 **A.** "She attended one semester.

2 **Q.** "And what was the tuition for the semester that she
3 attended at the Albuquerque Academy?

4 **A.** "Again, I'm not the one who does the finances. I don't
5 recall exactly.

6 **Q.** "Was it more than \$10,000?

7 **A.** "I believe so, yes.

8 **Q.** "More than \$20,000?

9 **A.** "I think so.

10 **Q.** "More than \$30,000?

11 **A.** "I believe it's in that ballpark.

12 **Q.** "Did your daughter attend the Albuquerque Academy for the
13 spring semester of 2020?

14 **A.** "Yes.

15 **Q.** "Is your daughter scheduled to begin school in Bend,
16 Oregon in the fall of 2020?

17 **A.** "Yes.

18 **Q.** "In a private school?

19 **A.** "No.

20 **Q.** "In a public school?

21 **A.** "Yes."

22 MS. MANDEL: Your Honor, if I may for context, just
23 read a couple of the questions at bottom of page 73?

24 THE COURT: Yes.

25 BY MS. MANDEL:

1 Q. "You mentioned earlier in passing that you have cats; is
2 that correct?

3 A. "Yes.

4 Q. "How many cats do you have?

5 A. "Two.

6 Q. "How long have you had those cats?

7 A. "I'm trying to remember. It's about two and a half
8 years, I think.

9 Q. "Are those the only pets that you and your wife currently
10 have?

11 A. "Yes.

12 Q. "Have you previously had any other pets during the time
13 that you've been married to your wife?

14 A. "Yes.

15 Q. "What were those pets?

16 A. "One other cat.

17 Q. "When did you have that cat?

18 A. "She had this cat when I met her, so from when we moved
19 in together until it died of old age.

20 Q. "When did it die of old age?

21 A. "I'm not sure I recall the exact year. I want to say
22 about 2010.

23 Q. "What effect did the cat's death have on your wife's
24 mental state that you observed?

25 A. "Nothing long term. She was sad at the time.

1 Q. "Aside from the cats that you've mentioned, have you and
2 your wife had any other pets during the time that you've
3 known her?

4 A. "No.

5 Q. "You testified that you currently have two cats. Does
6 your wife take care of those cats?

7 A. "Some of the time, yes.

8 Q. "Has your wife's ability to care for the cats changed in
9 the two and a half years that you've owned the cats?

10 A. "Overall, no. Occasionally I will feed the cats if it
11 looks like they need food.

12 Q. "Have you observed your wife's ability to care for your
13 daughter change from 2000 -- strike that.

14 "Changed from early 2018 to the present?

15 A. "Yes.

16 Q. "In what way?

17 A. "It is harder for her to be present for our daughter.
18 So, you know, as a 12-year-old, she would approach us, and
19 sometimes Lisa is just not there to be approached.

20 Q. "Any other ways in which you've observed your wife's
21 ability to care for your daughter change from early 2018 to
22 the present?

23 A. "Nothing specific. Lisa has done her very best to make
24 sure none of this affects Maya.

25 Q. "When you say none of this, are you referring to your

1 wife's anxiety and depression?

2 **A.** "Essentially, yes.

3 **Q.** "Are you referring to anything else?

4 **A.** "It's exacerbated by the ongoing case, so indirectly.

5 **Q.** "When you say it's 'exacerbated,' are you referring to
6 your wife's anxiety and depression?

7 **A.** "Yes.

8 **Q.** "And by 'The case,' are you referring to her lawsuit
9 against PPD?

10 **A.** "Yes.

11 **Q.** "Prior to January of 2018, did you ever observe your wife
12 have difficulty caring for your daughter?

13 **A.** "I assume you mean early 2018. Not that I recall.

14 **Q.** "Mr. Menninger, did you ever meet your wife's father?

15 **A.** "No, I did not.

16 **Q.** "Was the last time that you observed your wife having
17 interaction with your sibling --"

18 MS. MANDEL: Strike that.

19 Your Honor, I think just for context, if we read a
20 little more of page 77.

21 MR. HANNON: I suggest page 77, line 19,
22 Your Honor.

23 THE WITNESS: Sorry, there's a few pages that are
24 cut from our copy here.

25 THE COURT: Why don't you just start there.

1 MS. MANDEL: That's fine.

2 BY MS. MANDEL:

3 Q. "Have you observed your wife have interaction with your
4 sibling who lives outside of Dallas?

5 A. "Yes.

6 Q. "When did you last observe that interaction?

7 A. "The same occasion, so whenever we visited in the
8 timeframe we were in Overland Park.

9 MR. WATSON: Your Honor, I'm sorry. There's some
10 pages that are missing, so it doesn't flow into the next.

11 MR. HANNON: Oh, right.

12 THE COURT: So ladies and gentlemen of the jury,
13 they're not reading the entire deposition, because not all of
14 it is -- the lawyers don't think all of it is relevant. And
15 just as a general proposition, this is probably what I'm
16 going to tell you, and it comes as no surprise. You are not
17 hearing everything that every human being knows about
18 everything in any way that is related to this. You are
19 hearing the things that each lawyer thinks are relevant and
20 admissible. And that's to focus you and give you what you
21 need. And so they're only reading parts, and that's why
22 sometimes there's a question that they thought they weren't
23 going to read, but actually seems sensible to read for
24 context for something and that's what's going on.

25 And now -- and the notebook that Mr. Watson has and

1 that we all have these notebooks that they're reading from,
2 don't even have every page of the deposition, so that's what
3 they're looking at now.

4 BY MS. MANDEL:

5 Q. "When did you last observe your wife have a conversation
6 with another person about her anxiety?

7 A. "Other than family members?

8 Q. "Anyone. Period.

9 A. "Oh, anyone. Well, certainly that happened during one of
10 our visits with her family.

11 Q. "When was that visit?

12 A. "I'm not sure. We've had a handful since we've been
13 here. So, um, yeah, I struggle to think of one in which
14 there was a significant conversation on that topic.

15 Q. "When did you last observe have a conversation with
16 another person about her depression?

17 A. "Again, it would also certainly be with a family member,
18 since we moved here. It's challenging for me to give
19 specific times.

20 Q. "When did such a conversation last take place?

21 A. "Again, it's challenging for me to answer that.

22 Q. "What did you observe your wife say about her depression
23 during such a conversation?

24 A. "Essentially the same things that I've told you, that she
25 struggles to get out of bed and have any level of enthusiasm.

1 She shares her ambitions with her family, and then feels bad
2 when she can't follow through because of depression.

3 Q. "What ambitions have you observed your wife share with
4 her family?

5 A. "She wants to run. She wants to run races.

6 Q. "Any other ambitions?

7 A. "That's about it, yeah. She struggles with just that
8 one.

9 Q. "What have you observed your wife say to her family about
10 anxiety?

11 A. "I'm not sure she necessarily separates that out
12 conversation-wise. I think she has stated that she is
13 concerned about going out of the house because of her
14 anxiety.

15 Q. "Have you heard your wife speak with anybody else about
16 her panic disorder?

17 A. "Outside of family, no.

18 Q. "How about within the family?

19 A. "Yes. Her sister and her mother.

20 Q. "What have you observed your wife say to her sister about
21 her panic disorder?

22 A. "I recall her describing what they're like and when they
23 can occur.

24 Q. "What have you observed your wife say about her panic
25 disorder in conversations with her mother?

1 **A.** "I think overall, less than what she tells her sister,
2 essentially the same things, but just possibly without the
3 same detail.

4 **Q.** "What did your wife say to your sister -- strike that.

5 "What did your wife say to her sister about what it
6 is like when a panic attack occurs?

7 **A.** "Basically what I've already described, how she has
8 trouble communicating, trouble catching her breath, often
9 cries through it, describes just trying to get through the
10 moment. Certain things with temperature, you know. She
11 feels very hot, can get sweaty. You know, just her sister is
12 a nurse, and I think, you know, these sort of descriptive
13 things are meaningful to her.

14 **Q.** "Mr. Menninger, you testified earlier that you and your
15 wife met online based on similar interests. Do you recall
16 that?

17 **A.** "Yes.

18 **Q.** "What are those similar interests?

19 **A.** "We're both vegan.

20 **Q.** "Vegan?

21 **A.** "Yes.

22 **Q.** "Any other similar interests?

23 **A.** "Do we share similar interests other than that, is that
24 what you're asking?

25 **Q.** "I'm sorry?

1 **A.** "Are you asking if we share any other interests other
2 than being vegan?

3 **Q.** "I'm asking what similar interests you cited as the basis
4 for your meeting online?

5 **A.** "Oh, oh, sure. That. It's essentially a lifestyle, so
6 that encompasses a lot. It's more than just a diet. I won't
7 go off on that tangent, but yes, we found it easy to
8 communicate with one another.

9 **Q.** "During the time that you and your wife lived in Dighton,
10 Massachusetts, your wife worked primarily from home, correct?

11 **A.** "Correct.

12 **Q.** "Did you ever observe your wife's interactions with
13 Mr. Mekerri during the time that she worked from home in
14 Dighton, Massachusetts?

15 **A.** "No, I'm not even sure I know who that is.

16 **Q.** "I'm referring to Hacene Mekerri?

17 **A.** "Oh, okay. Sorry. She's always referred to him by his
18 first name, as far as I can remember. No, no, she had her
19 own office closed off, and when she worked, she -- yeah, I
20 had no interaction when she worked.

21 **Q.** "Did you observe your wife's interactions with Chad St.
22 John during the time she worked from home in Dighton?

23 **A.** "No, I did not.

24 **Q.** "Did you ever observe your wife's interactions with any
25 other colleagues at PPD during the time she worked at home in

1 Dighton?

2 **A.** "No, I did not.

3 **Q.** "Were you aware that at some point your wife disclosed
4 anxiety disorder to PPD?

5 **A.** "Yes.

6 **Q.** "I'm not asking about the contents of the conversation, I
7 want to be clear about that. Did you become aware of that
8 through a conversation with your wife or by some other means?

9 **A.** "Through a conversation with my wife.

10 **Q.** "When did you become aware that your wife had disclosed
11 an anxiety order to PPD?

12 **A.** "As it occurred. I was aware that she was about to. I
13 was aware that she did afterward.

14 **Q.** "In the time that you've known your wife, Mr. Menninger,
15 have you ever worried about danger of her harming herself?

16 **A.** "Yes.

17 **Q.** "During what time or times did you have that worry?

18 **A.** "I think the first occasion was while she was on medical
19 leave, so sometime in the first half of 2018.

20 **Q.** "Are you referring to her medical leave from her
21 employment at PPD?

22 **A.** "Correct.

23 **Q.** "What formed the basis of your concern that your wife may
24 harm herself during the first half of 2018?

25 **A.** "Her demeanor and her words.

1 Q. "What about your wife's demeanor during the first half of
2 2018 led you to worry that she may harm herself?

3 A. "She seemed just very out of character for her. She
4 seemed almost angry, frustrated, at a breaking point
5 essentially.

6 Q. "Was that a change from her demeanor before that point?

7 A. "In the sense that I had not seen that from her before,
8 yes.

9 Q. "What behavior did she exhibit in the way of anger?

10 A. "I think she felt angry that she had no means to escape
11 her situation.

12 Q. "What situation?

13 A. "That we had no ability or plans to sustain ourselves
14 financially and she felt -- yes, she felt there was no
15 obvious way to solve that.

16 Q. "Is that no ability or plans to sustain yourselves
17 financially if she was unable to work?

18 A. "Yes.

19 Q. "Did your wife exhibit any specific behavior that showed
20 the anger that you described in the first half of 2018?

21 A. "It was mostly conversationally, you know, directed
22 towards me.

23 Q. "When you say directed towards you, are you referencing
24 conversations between you and your wife?

25 A. "Yes.

1 Q. "Any other behavior towards you that you're referencing?

2 A. "No.

3 Q. "What behavior did your wife exhibit in the way of
4 frustration in the first half of 2018?

5 A. "Essentially the same. I feel like it's a lower level of
6 anger. She -- she felt there was injustice to her situation
7 and there was no obvious solution.

8 Q. "What specifically led you to believe that your wife was
9 in danger of harming herself?

10 A. "She said so.

11 Q. "Are you still referring to the time period of early --
12 strike that.

13 "Are you still referring to the time period of
14 first half of 2018?

15 A. "Yes.

16 Q. "Did you take any steps in the first half of 2018 in
17 response to your fear that your wife may harm herself?

18 A. "Yes.

19 Q. "And what are those steps?

20 A. "I contacted her therapist.

21 Q. "Was that Dr. Kessimian?

22 A. "Yes.

23 Q. "During what month in the first half of 2018 did you
24 contact Dr. Kessimian?

25 A. "I don't know based on my memory.

1 Q. "Aside from the time period that you just described in
2 the first half of 2018, has there been any other time period
3 when you feared your wife may have harmed herself?

4 A. "None to that amplitude, none to that effect.

5 Q. "Aside from the contact that you just described with
6 Dr. Kessimian, have you ever taken any other steps in
7 response to your fear that your wife may harm herself?

8 A. "I had very long conversations until I felt like she was
9 beyond that state of mind.

10 Q. "Any other steps that you've taken in response to that
11 fear?

12 A. "No. Once I felt she was okay, no.

13 Q. "Can you describe the contact that you had with
14 Dr. Kessimian in the first half of 2018?

15 A. "I called her on the phone.

16 Q. "Did Dr. Kessimian answer her phone?

17 A. "I don't recall if it was right away, but eventually,
18 yes.

19 Q. "Can you describe the conversation that you had with Dr.
20 Kessimian at that time?

21 A. "I relayed to her Lisa's current state and asked what I
22 should do and asked if she could talk to her.

23 Q. "And what did Dr. Kessimian say?

24 A. "She was agreeable to talking with Lisa and they had a
25 conversation.

1 Q. "What did Dr. Kessimian say to you during that
2 conversation?

3 A. "Yeah, it was all very emotional, so it's hard to
4 remember specifically. She -- in general, she indicated that
5 I did the right thing by contacting her and I should see if
6 Lisa was willing to talk with her.

7 Q. "Do you recall any other communications that you had with
8 Dr. Kessimian regarding a fear that your wife may harm
9 herself?

10 A. "No, certainly nothing like that.

11 Q. "I am going to -- give me one moment. I am going to
12 share an exhibit on the screen."

13 MS. MANDEL: The transcript indicates in
14 parenthesis the introduction of an exhibit labeled Menninger
15 000608.

16 BY MS. MANDEL:

17 Q. "Mr. Menninger, Justina has just marked Exhibit 1, the
18 document that is shared on the screen. Do you see that
19 screen in front of you?

20 A. "Yes.

21 Q. "Okay. I'm going to give you control of the mouse, so
22 that you can scroll up and down. I will submit to you that
23 it is just a one page document that has a number at the
24 bottom that says Menninger 608. Can you take a moment to
25 look at this document, and let us know when you've had a

1 chance to do so?

2 **A.** "I do see the document. Do you want me to read through
3 it?

4 **Q.** "Just take a moment to review it. Let us know when
5 you've had a chance to do so.

6 **A.** "Okay. I've seen this.

7 **Q.** "Mr. Menninger, do you mean that you've previously seen
8 this document?

9 **A.** "I wrote this document.

10 **Q.** "Do you recognize this as e-mail correspondence that you
11 had with Dr. Kessimian?

12 **A.** "Yes.

13 **Q.** "If you look at the upper right corner of the document,
14 there's a little star. Do you see that?

15 **A.** "Actually, it's blocked by our images.

16 **Q.** "Yeah, let me tell you how you can see all of it. If
17 you're in your Zoom settings on the side, do you have a panel
18 that has all the pictures right now?

19 **A.** "Yes.

20 **Q.** "Okay. If you click on the smallest line, it should
21 reduce the pictures so that they no longer block the
22 document?

23 **A.** "Okay. I did that.

24 **Q.** "Does that work for you?

25 **A.** "Yes.

1 Q. "Okay. Do you now see that little star on the upper
2 right-hand corner of the document marked as Exhibit 1?

3 A. "By the date, October 15th?

4 Q. "Yes. Exactly.

5 A. "Yes.

6 Q. "Do you see how it just says October 15th and no year,
7 correct?

8 A. "I do.

9 Q. "Is it your understanding that this was October 15th of
10 2018?

11 A. "That would make sense to me, yes, as far as our -- where
12 we lived, yes.

13 Q. "What did -- what led you to write this e-mail to Dr.
14 Kessimian on October 15, 2018?

15 A. "I believe at the time -- and I think this refers to the
16 occasion in which I asked her doctor to speak with her
17 directly. So I was apparently off by the date of it. And my
18 concern was that the conversation only temporarily resolved
19 the situation and I was concerned about long term.

20 Q. "What conversation only temporarily resolved the
21 situation?

22 A. "When I handed the phone to Lisa to talk with her doctor,
23 when Lisa was feeling suicidal.

24 Q. "Mr. Menninger, was this October 15, 2018 communication
25 with Dr. Kessimian a second time that you communicated with

1 Dr. Kessimian about a fear that your wife may harm herself?

2 **A.** "I don't recall.

3 **Q.** "Is it your testimony that you communicated with Dr.
4 Kessimian in the first half of 2018 about a fear that your
5 wife may harm herself and in October 2018 about such a fear?

6 **A.** "Oh, no. This is definitely the occasion in which I
7 called the doctor to hopefully intervene. I was simply off
8 in my estimate of time.

9 **Q.** "Does looking at this e-mail, marked as Exhibit 1,
10 refresh your recollection as to when that communication took
11 place with Dr. Kessimian?

12 **A.** "I mean, only in the sense that it provides a date and I
13 believe the date.

14 **Q.** "Now that you've had an opportunity to review this
15 document, do you still believe that you had communication
16 with Dr. Kessimian in the first half of 2018 regarding
17 Dr. Menninger's potential harm to herself?

18 **A.** "No. This is the occasion that I was speaking of.

19 **Q.** "Mr. Menninger, if you look farther down underneath the
20 line that's in the middle of this document?

21 **A.** "Uh-huh, yes.

22 **Q.** "Do you see there's another date. It also says
23 October 15th?

24 **A.** "Yes.

25 **Q.** "And would you agree, this appears to be an e-mail

1 message written by Dr. Kessimian, if you look at the left
2 side of the page?

3 **A.** "Yes.

4 **Q.** "Based on your review of the lower half this document, do
5 you believe this is the entirety of your e-mail communication
6 from Dr. Kessimian about the management of your fear that
7 Dr. Menninger may harm herself?

8 **A.** "The entirety of our e-mail conversation, yes, that seems
9 likely.

10 **Q.** "And now that you've had an opportunity to review this
11 document, do you believe that after October 15, 2018, you had
12 any further spoken communication with Dr. Kessimian about
13 your fear that your wife may harm herself?

14 **A.** "Well, as you can see, I'm very bad with dates. I did
15 share a session with Lisa and this doctor, but I don't recall
16 if it was before or after this occasion.

17 **Q.** "You testified earlier, Mr. Menninger, that your wife is
18 not currently employed, right?

19 **A.** "Correct.

20 **Q.** "And as far as you know, your wife has not sought
21 employment since she left PPD, correct?

22 **A.** "That is correct.

23 **Q.** "Based your observations of your wife's current mental
24 state, do you believe that she could work in a job outside
25 your home at this point?

1 **A.** "I don't believe she could.

2 **Q.** "And without commenting on your confidential
3 communications with your wife, what forms the basis of that
4 belief?

5 **A.** "Part of it is her inconsistent days, having bad days and
6 having okay days. That would not be compatible with most
7 working environments. Also, what she has trained for, what
8 she is good at is now something that she has a great deal of
9 anxiety about.

10 **Q.** "When you are referring to what she is trained for and
11 what she is good at, what are you referring to?

12 **A.** "Working as a clinical pathologist, working in a
13 corporate setting, anything that is a direct reminder of her
14 time at PPD.

15 **Q.** "Why do you believe that anything that is a direct
16 reminder of her time at PPD would be what she is good at?

17 **A.** "Yeah, I'm a little confused by the phrasing.

18 "Could you restate the question?

19 **Q.** "Mr. Menninger, you -- when asked what you were referring
20 to, you described what she is good at. You described your
21 wife working as a clinical pathologist, working in a
22 corporate setting and anything that is a direct reminder of
23 her time at PPD. I'm asking you to further explain that
24 answer.

25 **A.** "Oh, you're asking why I believe that?

1 Q. "Sure. Start with that.

2 A. "Okay. That is essentially a description of her
3 nightmares.

4 Q. "Is it your testimony that working as a clinical
5 pathologist, working in a corporate setting, and anything
6 that is a reminder of her time at PPD forms the basis of her
7 nightmares?

8 A. "Yes.

9 Q. "Based on your observations of your wife's current state,
10 do you believe that she is currently capable of working in a
11 job that could be performed from inside her home?

12 A. "I'm uncertain. It would depend on potentially the job,
13 how flexible the hours could be, if she could work around her
14 episodes of depression and anxiety.

15 Q. "Between January of 2018 and the present, was there any
16 time period when you believe your wife could have worked in a
17 job outside the home?

18 A. "I believe you're asking early January '18. No, I don't
19 believe she could have done that.

20 Q. "Between January '18 and the present, was there any time
21 period when you believed your wife could have worked in a job
22 that could be performed solely inside her home?

23 A. "Between early 2018 and now, no. The issue of -- the
24 basis of that is that working inside is not the primary
25 issue.

1 **Q.** "What do you believe is the primary issue that has made
2 your wife unable to work in a job from early 2018 to the
3 present?

4 **A.** "Anxiety, depression, the likely inability to schedule
5 around that, and she especially associates anxiety with her
6 career in pathology. So it would -- it would almost
7 certainly have to be in a totally different field and I just
8 don't believe she is prepared mentally for a change like
9 that.

10 **Q.** "Mr. Menninger, is it your belief as you sit here today
11 that your wife may never work again?

12 **A.** "Yes.

13 **Q.** "How has your wife's anxiety and depression affected your
14 marriage?

15 **A.** "Not positively. It's hard to be so close to someone who
16 feels so bad so much of the time. That hasn't changed how I
17 feel about her, but that's just -- it's a struggle to have
18 that, yeah, in such close proximity, day in and day out.

19 **Q.** "Did the nature of your marriage change between 2015 and
20 2018?

21 **A.** "No. Not that I can recall. Not in any significant way.

22 **Q.** "Mr. Menninger, why did you and your family move
23 specifically to Albuquerque, New Mexico, in 2018?

24 **A.** "We -- we were concerned about being stuck in our current
25 location, unable to afford the school that we moved there

1 for. Maya would have ended up in the local public school,
2 which we understood to not be very good. So we took -- we
3 were concerned that if we continued to spend the money we had
4 where we were, we would no longer be able to afford to move.
5 So we chose to move someplace with a lower cost of living and
6 some place she would feel more at home.

7 **Q.** "Did you look at other options, aside from Albuquerque,
8 New Mexico?

9 **A.** "We looked at many options, including where we ended up
10 here.

11 **Q.** "Meaning you considered Bend, Oregon at that time?

12 **A.** "Yes.

13 **Q.** "Why did you elect to live in Albuquerque, New Mexico,
14 instead of Bend, Oregon in 2018?

15 **A.** "I'm a little fuzzy on that now. I think at the time, it
16 was just her mom. Her sister moved there fairly recently, so
17 there's a little less incentive family wise. Bend is higher
18 cost of living than Albuquerque and we were unfamiliar with
19 it. Neither of us had been here. She had lived in
20 Albuquerque for a while and really enjoyed it there, so we
21 saw that as a better opportunity.

22 **Q.** "Based on your current salary level that you've described
23 and your wife's receipt of Social Security benefits, do you
24 feel that you and your family are now in a comfortable
25 financial state?

1 **A.** "Not long term, no. My job is essentially a startup, so
2 there's always a little uncertainty with that. And Bend is
3 relatively expensive. So, yes, there's still uncertainty,
4 even now.

5 **Q.** "If your employment becomes more definite, would you feel
6 comfortable with your family's financial state longer term?

7 **A.** "Certainly.

8 **Q.** "Let's break for about five minutes."

9 THE COURT: Skip that part.

10 MS. MANDEL: Thank you.

11 BY MS. MANDEL:

12 **Q.** "Mr. Menninger, we're almost done. I just have a few
13 more questions for you. You testified a few moments ago
14 about a sense of financial uncertainty in connection with you
15 working for a startup, correct?

16 **A.** "Yes.

17 **Q.** "Are you currently looking for another job?

18 **A.** "No, I'm not.

19 **Q.** "Have you searched for any other employment since June of
20 2018?

21 **A.** "June 2018? I believe I considered a job at Maya's
22 school, at The Wheeler School. They had an opening for a
23 math teacher at the -- it seemed like a way to keep her in
24 that school potentially, but that did not work out.

25 **Q.** "Did you apply for that job?

1 **A.** "I don't think it got to that point. I contacted them,
2 and they essentially said they found someone for it.

3 **Q.** "Have you applied for any job since June of 2018?

4 **A.** "No.

5 **Q.** "As you sit here today, do you have any plans to apply
6 for another job within the next six months?

7 **A.** "I have no such plans.

8 **Q.** "Are you currently seeking out any other employment
9 options beyond Triangulate Labs?

10 **A.** "No, I'm not.

11 **Q.** "Mr. Menninger, do you believe that it is important for
12 you or your wife to be at home for your daughter?

13 **A.** "Certainly in the context of the current pandemic, yes.

14 **Q.** "Prior to the current COVID-19 pandemic, did you believe
15 that either you or your wife should be primarily available
16 for your daughter at home?

17 **A.** "I struggle to answer, because when she attended school,
18 she would not have been home. So that wouldn't have applied.
19 Certainly during normal daily activities, when she is home,
20 one of us should be here.

21 **Q.** "Before the onset of the COVID-19 pandemic, did your
22 daughter attend any sort of after-school care?

23 **A.** "Not care so much. She attended a club, I believe, at
24 one of her schools, so on certain nights, she would come home
25 later.

1 Q. "Aside from you and your wife, did anybody else care for
2 your daughter in your home during calendar year 2020?

3 A. "No.

4 Q. "Is it your belief that either you or your wife should be
5 the only ones caring for your wife at home -- caring for your
6 daughter at home?

7 A. "Again, without the context of the pandemic?

8 Q. "Yes.

9 A. "Okay. I -- it really hasn't come up in our thoughts.
10 We -- I work from home, so it just isn't a question we
11 have -- we have discussed.

12 Q. "In calendar year 2019, aside from you or your wife, did
13 anyone else care for your daughter in your home?

14 A. "No.

15 Q. "In calendar year 2018, aside from you and your wife, did
16 anyone else care for your daughter in your home?

17 A. "No.

18 Q. "What about calendar year 2017?

19 A. "No.

20 Q. "Do you anticipate, based on what you know now, that your
21 daughter will attend school in person for fall of 2020?

22 A. "We anticipate she will not attend in person.

23 Q. "Do you and your wife both intend to be home with your
24 daughter during the day throughout the remainder of 2020?

25 A. "Yes."

1 MR. HANNON: I have a couple of questions. Maybe I
2 should read those in.

3 THE COURT: Sure.

4 MR. HANNON: If that works.

5 THE COURT: So Mr. Hannon will read -- those
6 questions that Ms. Mandel read, she was asking those
7 questions. Now we're just about at the end and there's a
8 couple of questions that Mr. Hannon asked, so just more -- I
9 think you will get a better feel if he --

10 MR. HANNON: I'll just do them from here, if that's
11 okay.

12 THE COURT: That's fine.

13 BY MR. HANNON:

14 Q. "Mr. Menninger, in your questioning by Ms. Mandel, you
15 were asked about the timing of events that occurred in 2018,
16 and I think you indicated initially you thought there was a
17 conversation that happened in the first half, but now you
18 think it happened in October. Do you recall that testimony?

19 A. "I do.

20 Q. "Okay. And I think I also heard you say that your
21 estimate, in terms of when your wife's depression symptoms
22 started was some time in the early part of 2018. Did I hear
23 you correctly?

24 A. "Yes.

25 Q. "Okay. Are you able to provide any more specific

1 estimate in terms of when those symptoms started, besides
2 early 2018?

3 **A.** "Yes. I recall the event of her receiving an exit
4 package offer and that being fairly traumatic for her.

5 **Q.** "Okay. Besides your understanding that there was some
6 event, can you provide any additional detail in terms of your
7 estimate of when these symptoms started?

8 **A.** "No."

9 MR. HANNON: That's all, Your Honor.

10 THE COURT: Okay. Thank you. That concludes --

11 MR. HANNON: Judge, just for the record, can we
12 note the date of the deposition?

13 THE COURT: Yes.

14 MR. HANNON: Which was August 13th of 2020.

15 THE COURT: Okay. That concludes that reading of
16 that deposition.

17 What's the next witness?

18 MR. HANNON: The plaintiff calls Brent McKinnon.

19 THE COURT: All right. Mr. McKinnon, if you'd come
20 forward and take the witness stand.

21 (The witness was duly sworn.)

22 THE DEPUTY CLERK: Can you please state your full
23 name and spell your last name for the record.

24 THE WITNESS: It's Brent Harper McKinnon,
25 M-c-K-i-n-n-o-n.

1 THE DEPUTY CLERK: Thank you.

2 THE COURT: Have a seat.

3 Go ahead, Mr. Hannon.

4 MR. HANNON: Thank you, Your Honor.

5 **BRENT H. MCKINNON**

6 having been duly sworn, testified as follows:

7 **DIRECT EXAMINATION BY COUNSEL FOR PLAINTIFF**

8 BY MR. HANNON:

9 **Q.** Good morning, Mr. McKinnon.

10 **A.** Good morning.

11 **Q.** Sir, where do you live?

12 **A.** I live in Pittsburgh, Texas.

13 **Q.** Okay. I might have guessed that.

14 **A.** Yeah.

15 **Q.** What do you do for work, sir?

16 **A.** I work for Thermo Fisher Scientific.

17 **Q.** And what do you do there?

18 **A.** I'm vice president of quality assurance.

19 **Q.** Okay. And are you vice president of quality assurance
20 for any particular segment within Thermo Fisher?

21 **A.** For the analytical services division.

22 **Q.** Okay. Were you previously employed by PPD?

23 **A.** Yes.

24 **Q.** And when were you employed by PPD?

25 **A.** From March of 2015 until -- we were acquired by Thermo

1 Fisher in late 2020.

2 **Q.** And what was your role at PPD when you were first hired
3 there?

4 **A.** Executive director of quality for Global Central
5 Laboratory.

6 **Q.** And can you give the jury an overview of what your duties
7 and responsibilities were in that role?

8 **A.** Yes. So I was responsible for quality assurance and
9 compliance, making sure that we complied with the regulatory
10 requirements for the Central Labs business, as well as our
11 internal procedures. And so we would -- my team would audit
12 the -- the laboratory and the other support functions to make
13 sure that we were following our -- our defined processes.

14 **Q.** Okay. And you -- you moved into that role in March of
15 2015; is that right?

16 **A.** Say that again?

17 **Q.** You moved into that role in March of 2015?

18 **A.** Yes, sir.

19 **Q.** And the jury has heard some testimony about a gentleman
20 named Hacene Mekerri. Did you ever report to Mr. Mekerri?

21 **A.** No.

22 **Q.** To whom did you report?

23 **A.** I reported to Jay Dixon.

24 **Q.** Okay. And what was Mr. Dixon's title?

25 **A.** Senior vice president of quality for PPD.

1 Q. Do you know if Mr. Dixon and Mr. Mekerri were essentially
2 peers?

3 A. Um -- yeah, I would say they're -- I would say they were
4 peers.

5 Q. Okay. But during the time that both you and Mr. Mekerri
6 worked at PPD, you would interact with Mr. Mekerri
7 frequently; is that right?

8 A. That's correct.

9 Q. Okay. And when did you leave that role that you've
10 described that you started in March of 2015?

11 A. In March of -- yeah, I think it was March of 2019, I --
12 my role was expanded to include all of PPD laboratories, so
13 I -- my agreement changed and somebody else back-filled my
14 role, just as the Central Labs quality leader.

15 Q. Okay. So that was March of 2019?

16 A. Yes, sir.

17 Q. And was that essentially a promotion?

18 A. Yes.

19 Q. So did you go from having control over just Global
20 Central Labs to all of PPD's labs?

21 A. Yes.

22 Q. And then your role, was that filled by one of your former
23 subordinates?

24 A. It was.

25 Q. And was that Kathy Dick?

1 **A.** Yes.

2 **Q.** And when -- at some point in time -- well, strike that.

3 When you first started working at PPD, did you work
4 at the Highland Heights facility?

5 **A.** Yes, sir. I started at Highland Heights in March of
6 2015.

7 **Q.** Okay. But you had responsibility for the global labs
8 throughout the -- the Global Central Labs throughout the
9 world?

10 **A.** Yes, sir.

11 **Q.** And at some point you went remote; is that right?

12 **A.** Shortly after my role expanded to include the -- all of
13 the labs, I started working remotely there in northern
14 Kentucky.

15 **Q.** Okay. And was that -- was that -- in terms of being in
16 northern Kentucky, was that a personal choice?

17 **A.** Well, part of it was I wanted Kathy to be able to step
18 into her role as the quality leader for the business, and so
19 I needed to back away to give her room to, you know -- just
20 to take ownership of her position. And I could still, you
21 know, visit the lab and had an office there occasionally.

22 **Q.** Okay. And when you went remote, am I right that your
23 time on site dropped to about 10 percent; is that right?

24 **A.** That's correct.

25 **Q.** Okay. Part of your role in -- when you were executive

1 director of quality for the Global Central Labs -- did I get
2 that title right?

3 **A.** Yes.

4 **Q.** When you had that role -- that was the role you had in
5 2017 and 2018; is that right?

6 **A.** That's correct.

7 **Q.** And part of your role involved investigations of quality
8 control events; is that right?

9 **A.** Yes. Of quality events, yes.

10 **Q.** Okay. And in that time period, PPD had a -- had a plan
11 in terms of how to address quality events; is that right?

12 **A.** We had a procedure, yes.

13 **Q.** It was a sort of carefully defined process in terms of
14 what would happen once a quality event was identified?

15 **A.** Yes, sir.

16 **Q.** Okay. So I just want to take a few minutes and kind of
17 walk the jury through what that procedure was. So during the
18 time period, there was a daily call to discuss quality
19 events; is that right?

20 **A.** Yes.

21 **Q.** And that daily call, that was attended by representatives
22 of various functional groups within the Global Central Labs;
23 is that right?

24 **A.** Yes.

25 **Q.** So part of that would include project management?

1 **A.** Yes.

2 **Q.** Some of that would include medical folks, like from
3 Dr. Menninger's team?

4 **A.** I'm not sure what you mean by "medical folks," but yes.
5 I mean, from our -- the scientific affairs, the laboratory.

6 **Q.** Okay.

7 **A.** Our sample management team. All of those support
8 functions would have the opportunity to be present for that
9 daily call.

10 **Q.** What other functional groups were sort of involved in
11 those?

12 **A.** I'm sure I'll leave some out, but we have a site services
13 group that managed communications with the clinical sites,
14 sample management, data management, IT, the scientific
15 affairs, quality control, quality assurance. I think that's
16 probably it.

17 **Q.** Okay. And so all these different groups would be able to
18 send someone to participate in this daily call, right?

19 **A.** Yes.

20 **Q.** And am I right that during the daily call, any -- any new
21 quality events would be -- would be raised, right?

22 **A.** That's correct. Anything that was entered within the
23 last 24 hours would be discussed.

24 **Q.** Okay. And that discussion would focus first upon
25 identifying who should investigate the issue, correct?

1 **A.** That's correct.

2 **Q.** And how would you go about deciding who should do the
3 investigation?

4 **A.** Well, it was really, like, where the occurrence, where
5 the quality event occurred as part of our process. So, you
6 know, if it was an issue with, you know -- in sample
7 receiving, for example, then maybe sample management would
8 take that on. So for the most part, the attendees would
9 speak up if they recognized that the quality event would have
10 occurred in kind of their area. And if we made a mistake
11 during that time, incorrect assignment, then there was
12 opportunity to reassign as, you know, later in the process.

13 **Q.** Okay. And so would it be fair to say that essentially
14 the group on the call tries to identify the most -- the most
15 appropriate investigator, based upon what's known about the
16 problem at that time?

17 **A.** Yes.

18 **Q.** Okay. And once the investigator is assigned, what is
19 that person supposed to do?

20 **A.** Well, the -- that person would work with members of my
21 team, other members of operations to complete their
22 investigation. So with the goal being to identify the root
23 cause of the problem, so that corrective and preventative
24 actions could be established to prevent recurrence of that
25 error.

1 **Q.** And can you explain for the jury what you mean by root
2 cause?

3 **A.** Root cause is really an investigational technique to
4 really get at the root of the problem, you know. If -- you
5 know, if an error occurred in shipping, for example, you
6 know, was -- you know, if a box was dropped, like, well, why.
7 So you keep asking why until you really get to the root of
8 the problem, so you can -- you can employ a corrective
9 measure to avoid that mistake in the future.

10 **Q.** Okay. And in terms of root causes for quality control
11 events, sometimes those were just caused by human error,
12 right?

13 **A.** Yes.

14 **Q.** Sometimes were they caused by issues in terms of poorly
15 established process?

16 **A.** Yes.

17 **Q.** Sometimes were they -- were they IT issues?

18 **A.** Yes.

19 **Q.** So there can be lots of potential root causes for a
20 quality control event, right?

21 **A.** That's correct.

22 **Q.** And those root causes could have fallen within any one of
23 the various sort of functional responsibilities of the lab;
24 is that right?

25 **A.** That's correct.

1 **Q.** So during this -- during this daily call, would there
2 also be a sort of timetable set in terms of when the
3 investigation should be completed?

4 **A.** Yes. If I recall at that time, it was generally 30 days
5 for what we classify as minor or major quality events. And
6 if it was a critical issue, then I believe there was a little
7 bit more time that was allowed to be -- for just the
8 thoroughness that's required. And I think it was 45 days,
9 but I may be wrong.

10 **Q.** Okay. And you mentioned the minor/major/critical. Was
11 that a sort of rating system that was used to classify
12 quality control events?

13 **A.** Yes.

14 **Q.** And could you explain for the jury a little bit in terms
15 of how to distinguish between a minor, major, or critical
16 event?

17 **A.** So really, it's about the overall impact, the risk
18 associated, if it was a patient safety concern; if it could
19 affect the quality of the result, the accuracy of the result
20 that we are sending back to a treating physician, then it
21 would move higher on that scale. If it was a sample that was
22 compromised, but yet we had an alternate sample, then it
23 would be minor, because we can recover easily from that type
24 of event.

25 **Q.** But fair to say that the classification, minor, major,

1 critical, that's done before you even know what the root
2 cause of the problem is; is that right?

3 **A.** It is and it can change as you learn more about the
4 investigation -- as you dig into the problem more. So, yeah.

5 **Q.** Okay. And the investigator, when he or she is done with
6 the investigation, were they required to do some kind of
7 report?

8 **A.** I'm sorry, can you repeat the question?

9 **Q.** Sure thing.

10 When the investigator completed his or her
11 investigation, would there be a report?

12 **A.** There -- it would end up in a report, yes. We had a
13 template that they would populate in the -- in the system
14 that we had programmed to, you know, create a final report
15 once -- once all parties were comfortable with the content.

16 **Q.** Okay. And that report, that would address root cause?

17 **A.** Yes.

18 **Q.** It would address corrective action?

19 **A.** That's correct.

20 **Q.** And that report, that would go to the investigator's
21 manager; is that right?

22 **A.** That's correct.

23 **Q.** Okay. And the investigator's manager would be
24 responsible for reviewing the report?

25 **A.** That's correct.

1 Q. And signing off on it?

2 A. Yes.

3 Q. Okay. And then after the report was done, that would
4 then go to someone in your organization; is that right?

5 A. Yes, sir.

6 Q. And then they would also review the report, right?

7 A. That's correct.

8 Q. And they would see if they agree with the assessment of
9 the root cause?

10 A. Yes.

11 Q. And if they agree with respect to the corrective action
12 recommended; is that right?

13 A. That's correct.

14 Q. Okay. You met Dr. Menninger for the first time when she
15 interviewed at PPD; is that right?

16 A. That's correct.

17 Q. And your initial interaction with her was very positive;
18 is that right?

19 A. Yes.

20 Q. You enjoyed the conversation?

21 A. I did.

22 Q. You supported her hiring?

23 A. I did.

24 Q. During the time that you worked with her, you worked well
25 with her; is that right?

1 **A.** I did, yeah.

2 **Q.** You found her to be technically very astute and capable;
3 is that right?

4 **A.** Yes.

5 **Q.** You found her personable?

6 **A.** I did.

7 **Q.** Easy to work with?

8 **A.** Yes.

9 **Q.** You thought she was a good listener and partner; is that
10 right?

11 **A.** That's right.

12 MR. HANNON: And that's all I have, Your Honor.

13 THE COURT: All right. Cross-examination?

14 **CROSS-EXAMINATION BY COUNSEL FOR DEFENDANT**

15 BY MR. CURRAN:

16 **Q.** Good morning, Brent.

17 **A.** Good morning.

18 **Q.** Sorry. I just have to get set up here.

19 So, Brent, could you explain what quality assurance
20 means in the context of the services that PPD Central Lab
21 business provides?

22 **A.** For -- so quality assurance is really about not only
23 ensuring that we're complaint with the regulatory
24 accountabilities that, you know, we're -- that we're
25 controlled by and that we're governed by, but also just

1 ensuring that, you know, we are providing repeatable, you
2 know -- in the case of, you know, a clinical laboratory, that
3 we're providing accurate results, you know, based on a
4 controlled set of processes that we manage as part of our
5 overall quality system.

6 **Q.** Okay. And I think you mentioned, when Mr. Hannon was
7 asking you questions, that you -- that you interviewed
8 Dr. Menninger; is that right?

9 **A.** I did.

10 **Q.** Okay. And when was that?

11 **A.** It was in mid 20 -- mid 2015. Sorry.

12 **Q.** Okay. And did she seem anxious or nervous to you?

13 **A.** No.

14 **Q.** And I think you testified that you recommended that she
15 be hired?

16 **A.** I did.

17 **Q.** And then you worked together after that?

18 **A.** Yes.

19 **Q.** What kind of things did you work together on?

20 **A.** Well, one of the first things we worked on together was
21 we were seeking accreditation to -- a clinical laboratory
22 standard referred to as iso 15189, and Dr. Menninger had
23 experience with that. So she worked closely with my team to
24 create some energy around and excitement around that program.
25 And then just day-to-day stuff, you know, being there at the

1 lab together, you know, quality issues would come up. You
2 know, we would work together on that. But just day-to-day
3 business operations, type opportunities we had to engage with
4 one another.

5 **Q.** Okay. And I think you testified earlier that you worked
6 with another individual named Hacene Mekerri; is that right?

7 **A.** I did.

8 **Q.** And who is Mr. Mekerri, again?

9 **A.** Mr. Mekerri was our business leader. So he was -- I
10 don't recall his title specifically, but he was a vice
11 president of the -- you know, Global Central Laboratories.
12 But he was more over the business side of things.

13 **Q.** And you didn't report to him, correct?

14 **A.** No.

15 **Q.** Did Dr. Mekerri ever ask you to provide him with feedback
16 regarding Dr. Menninger's job performance?

17 **A.** He did.

18 **Q.** And when was that?

19 **A.** It was -- I believe it was in late 2017, as we were
20 preparing for our annual performance reviews.

21 **Q.** Okay. I'm going to show you now a document that's been
22 marked as Joint Exhibit 427, hopefully, if I can get it to
23 come up here. And I did.

24 All right. So do you recognize this document?

25 **A.** I do.

1 **Q.** What is it?

2 **A.** This is an e-mail from myself to Mr. Mekerri in November
3 of 2017 where I responded to his request for feedback on his
4 leadership team.

5 **Q.** Okay. And after that blacked-out portion there, there's
6 a bullet point?

7 **A.** Yes.

8 **Q.** Is that where you provided your feedback to Mr. Mekerri?

9 **A.** It is, yes.

10 **Q.** Okay. And in the first line you describe your feedback
11 about Dr. Menninger as mixed. Do you see that?

12 **A.** Yes.

13 **Q.** What did you mean by that?

14 **A.** Well, I had worked with her for a year-plus at that
15 point, two years. And so I had really positive interactions.
16 But there was also some opportunities I saw for improvement
17 that I wanted to, you know, share with Mr. Mekerri.

18 **Q.** Okay. So you wrote, in that first line there, the
19 sentence beginning, "While." "While I feel that Lisa is
20 technically strong and a very nice amenable person, she has
21 not demonstrated a leadership strength that I would expect.
22 Lisa has been very indecisive on numerous important matters;
23 e.g.; lab training, competency documentation, supervisory
24 responsibilities that have resulted in lingering compliance
25 concerns raised by internal auditors, SLT peers and

1 customers."

2 Do you see that?

3 **A.** Yes.

4 **Q.** And could you explain to the jury what you meant by that?

5 **A.** Yes. So we -- through that second half of 2017, we had
6 had cases where there were weaknesses in training. There had
7 been -- what I had discerned to be like kind of a general
8 lack of supervision that led to some quality errors. And
9 then the lack of follow through and consistently achieving
10 our due dates for not only investigations, but also for
11 commitments that were made across, you know, through that
12 process. So like a corrective action was planned, a due date
13 would be established, and then we wouldn't consistently hit
14 that date. And that was really, you know, happening across
15 the board.

16 **Q.** You also wrote that, "Since her decision to relocate, she
17 has been lackadaisical toward her time on-site in US lab."

18 Do you see that?

19 **A.** Yes.

20 **Q.** What were you referring to there?

21 **A.** Well, the -- following her relocation, I rarely would see
22 her visit the lab, you know, following that relocation.

23 **Q.** And do you recall approximately when it was that she
24 relocated?

25 **A.** I think it was in mid 2017.

1 **Q.** Okay. And was there any problem with her being really
2 present on site at the lab, in your view?

3 **A.** Yes. In her role as the lab director for our New York
4 State Department of Health, there was an expectation that
5 there would be some on-site presence, and that concerned me.

6 **Q.** Now, these were just your opinions that you expressed
7 here, correct?

8 **A.** Absolutely, yes.

9 **Q.** It's possible that other people might have disagreed with
10 them, correct?

11 **A.** Correct.

12 **Q.** For example, Dr. Menninger might have disagreed that
13 these were issues for her?

14 **A.** Yes.

15 **Q.** But these -- were these your generally held opinions?

16 **A.** Yes.

17 **Q.** And you didn't have any animosity towards Dr. Menninger
18 at that time?

19 **A.** Absolutely not.

20 **Q.** But you don't have any as you're sitting here today,
21 right?

22 **A.** No.

23 **Q.** Okay. And I think you talked and testified in response
24 to some questions from Mr. Hannon about quality control
25 issues. Do you recall that?

1 **A.** Yes.

2 **Q.** Do you recall there being quality control issues in the
3 early part of 2018?

4 **A.** Yes.

5 **Q.** And did you interact with Dr. Menninger with respect to
6 any of those issues?

7 **A.** I don't recall.

8 **Q.** Okay. Were you ever interviewed in connection with an HR
9 investigation into complaints by Dr. Menninger?

10 **A.** Yes.

11 **Q.** Who interviewed you?

12 **A.** Our VP of HR, Ms. Ballweg.

13 **Q.** And when was that?

14 **A.** I think it was in early spring of 2018.

15 **Q.** Okay. I'm going to show you a document now that's been
16 marked as Joint Exhibit 450. And this is several pages into
17 the document.

18 But so this appears to be the notes by Ms. Ballweg
19 of her interview with you, in May of 2018. Do you see that?

20 **A.** Yes.

21 **Q.** Okay. Now, you didn't play any part in drafting this,
22 correct?

23 **A.** No.

24 **Q.** But does what's represented as -- so -- under (a), it
25 says "Brent McKinnon," do you see that?

1 **A.** Yes.

2 **Q.** And after that, there's some text, and it goes on down
3 for the rest of the page?

4 **A.** Yes.

5 **Q.** And does that appear to be what you -- consistent with
6 what you told Dr. -- or Ms. Ballweg?

7 **A.** Yes, it is consistent, yes.

8 **Q.** Do you have any reason to believe that this does not
9 accurately reflect what you told Deb Ballweg during your
10 interview with her?

11 **A.** No, sir.

12 **Q.** So in the second line, after your name, it begins,
13 "currently lack of accountability by business on working to
14 close events timely."

15 Do you see that?

16 **A.** Yes.

17 **Q.** Is that consistent with your views at the time?

18 **A.** Yes.

19 **Q.** And what did you mean by that?

20 **A.** Like I had mentioned earlier, we weren't consistently
21 hitting our due dates for closure of investigations, and
22 furthermore, for -- we weren't closing out the corrective and
23 preventative actions by the commitment dates.

24 **Q.** And then the next sentence reads, "Hacene, through
25 leadership team meetings, is asking everyone to give this

1 priority and to work towards closing all events timely." Do
2 you see that?

3 **A.** Yes.

4 **Q.** Is that an accurate statement?

5 **A.** It is, yes.

6 **Q.** So was Hacene asking everyone at the leadership team
7 meetings to prioritize the quality control issues and to work
8 towards closing them?

9 **A.** Yes, everyone.

10 **Q.** And was Dr. Menninger one of those who attended those
11 meetings and whom Hacene was asking to prioritize the issues?

12 **A.** Yes.

13 **Q.** And were those others who attended those meetings?

14 **A.** Yes.

15 **Q.** And was Hacene asking them to prioritize those issues, as
16 well?

17 **A.** Yes.

18 **Q.** I think you testified earlier your boss at the time was
19 Jay Dixon; is that right?

20 **A.** Yes.

21 **Q.** All right. And was he directing you to prioritize those
22 issues in the spring of 2018?

23 **A.** Yes.

24 **Q.** And is it fair to say that he was putting some pressure
25 on you to get that done?

1 **A.** Yes.

2 **Q.** And at the time of your interview with Ms. Ballweg in the
3 spring of 2018, were you aware that Dr. Menninger had
4 informed the company that she had a disability?

5 **A.** No.

6 **Q.** Were you aware that she had asked for accommodations of
7 any kind?

8 **A.** No.

9 **Q.** Were you aware that Dr. Menninger had said she suffered
10 from an anxiety disorder or panic attacks?

11 **A.** No.

12 **Q.** Had you ever seen her suffer a panic attack?

13 **A.** No.

14 **Q.** When did you first learn that Dr. Menninger had said she
15 suffered from a medical condition or disability?

16 **A.** I believe it was just like a day or two before my
17 deposition, when I had the opportunity to read the complaint.

18 MS. MANDEL: I don't have any further questions.

19 Thanks, Brent.

20 THE COURT: All right. Redirect?

21 MR. HANNON: Yes, Your Honor.

22 **REDIRECT EXAMINATION BY COUNSEL FOR PLAINTIFF**

23 BY MR. HANNON:

24 **Q.** Mr. McKinnon, when you were interviewed by Deborah
25 Ballweg in May of 2018, you didn't tell her that the lab

1 problems that have been occurring recently were
2 Dr. Menninger's fault, did you?

3 **A.** No.

4 **Q.** And just looking back at the document, Joint Exhibit 450
5 we were just looking at, the current lack of accountability
6 by business, was there reference just to Dr. Menninger's
7 group?

8 **A.** No.

9 **Q.** That was -- that was across the various functional areas
10 of the lab, right?

11 **A.** That's correct.

12 **Q.** Okay. And the other functional areas of the lab, those
13 included the groups like sample management, right?

14 **A.** That's correct.

15 **Q.** And the various other groups we talked about early this
16 morning, right?

17 **A.** That's correct.

18 **Q.** Was one of those groups led by Chris Clendening?

19 **A.** Yes.

20 **Q.** Is he here in the courtroom?

21 **A.** Yes.

22 **Q.** Okay. Is that him behind me?

23 **A.** That is.

24 **Q.** Okay. I have never seen him before. That was my next
25 question.

1 Okay. And with respect to lab issues in 2018, why
2 is it that that -- that that call we talked about earlier
3 happens every single day?

4 **A.** Well, the -- the triage call, as we refer to it, is
5 important to have those within a timely manner of identifying
6 the occurrence, so that the problem is not exacerbated,
7 meaning you don't experience another occurrence before we're
8 able to put a -- you know, stopgap measure in place, so
9 things can get out of hand if you don't address it with a
10 sense of urgency.

11 **Q.** But why every single day do you have to have that triage
12 call?

13 **A.** Same -- the same answer. I mean, it's -- because we had
14 quality events submitted every day. I mean, I'm sure there
15 are some exceptions, but -- and as long as there was a
16 quality event, there was a need for a meeting.

17 **Q.** Do you still have those triage meetings every single day?

18 **A.** I don't know.

19 **Q.** Any reason to believe you don't?

20 **A.** No.

21 **Q.** With respect to the other issues you raised for
22 Mr. Curran's examination, we also looked at some 360 feedback
23 you had provided to Mr. Mekerri. Let's take a look at that.

24 All right. So I'm now showing you Joint
25 Exhibit 427. This was the 360 feedback we looked at earlier;

1 is that right?

2 **A.** Yes.

3 **Q.** So this is from November 29, 2017, correct?

4 **A.** Well, my e-mail to Mr. Mekerri was on the 17th.

5 **Q.** Oh. Thank you. Sorry about that. That wasn't -- that
6 wasn't a trick question. All right. So November 17, 2017,
7 is when you're giving him this feedback, right?

8 **A.** Yeah.

9 **Q.** And do you recall that there was a -- there was an
10 inspection later on this year conducted by the New York
11 State?

12 **A.** Can you repeat the question?

13 **Q.** Do you recall there was an inspection conducted later
14 this year -- later -- let me ask a better question.

15 Later in 2017, after you sent this e-mail, New York
16 State did an inspection of the Highland Heights lab; is that
17 right?

18 **A.** I believe so, yes.

19 **Q.** And this e-mail that you sent to Mr. Mekerri on
20 November 17, 2017, this partly reflected concerns you had
21 about that upcoming inspection, right?

22 **A.** Yes.

23 **Q.** You thought that Dr. Menninger's remote status might be a
24 problem, right?

25 **A.** I did.

1 **Q.** PPD passed that inspection, correct?

2 **A.** Yes.

3 **Q.** And in fact, Dr. Menninger, she was on-site for that
4 inspection, right?

5 **A.** I believe so.

6 **Q.** Okay. In terms of your comment about Dr. Menninger
7 having been "lackadaisical toward her time on site in US lab"
8 were you aware of what Dr. Menninger's travel schedule had
9 been between the time she went on remote status and November,
10 17 of 2017?

11 **A.** Not at all.

12 **Q.** Okay. You didn't know how much she had been traveling to
13 the other labs that she was responsible for?

14 **A.** No. No.

15 **Q.** And in fact, after you sent this e-mail, Dr. Menninger
16 did travel to Highland Heights for that inspection for New
17 York State, correct?

18 **A.** I believe so.

19 **Q.** Okay. With respect to your comment about "lack of bench
20 level supervision," were you aware of the efforts that
21 Dr. Menninger was making in 2017 to recruit additional bench
22 level supervision?

23 **A.** I don't recall at this time.

24 **Q.** Okay. Do you know who Narine -- and I can't pronounce
25 her last name?

1 **A.** I do.

2 **Q.** You know who I'm talking about?

3 **A.** I do, yeah.

4 **Q.** Okay. She was hired in early 2018; is that right?

5 **A.** I don't -- I'm not sure.

6 **Q.** Okay. Do you recall what the role was that she was hired
7 into?

8 **A.** It was a lab operations leadership role. I'm not sure of
9 her title.

10 **Q.** Okay, but essentially sort of an on-site lab operations
11 supervisor. Is that fair to say?

12 **A.** That's fair to say.

13 **Q.** Okay. And when you wrote this e-mail in November of
14 2017, were you aware that they were trying to fill that
15 position?

16 **A.** I don't recall.

17 **Q.** Okay. Do you know who Dr. Paul Reddy is?

18 **A.** I do.

19 **Q.** And who is he?

20 **A.** Well, he was brought in, I believe, to lead up our
21 molecular section of the lab. That was his area of
22 expertise.

23 **Q.** Okay.

24 **A.** And then he also had some responsibility for our
25 biorepository, so our sample storage area.

1 **Q.** Do you recall when he was hired?

2 **A.** I do not.

3 **Q.** Was it in 2017?

4 **A.** I don't recall.

5 **Q.** Do you recall at some point in time, Mr. Reddy, he became
6 the interim CAP director for the Highland Heights lab?

7 **A.** Yes.

8 **Q.** And that was shortly after this November 2017 e-mail;
9 isn't that right?

10 **A.** I don't recall when he became interim director.

11 **Q.** What does that mean, an interim CAP director?

12 **A.** Well, it's just while you're waiting on a permanent
13 position to be filled, somebody can -- is qualified to step
14 into those shoes and play that role while you're searching
15 for a permanent director.

16 **Q.** And when you say CAP director, what does that mean?

17 **A.** Board certified pathologist that's capable of holding --
18 you know, has the credentials necessary to be designated the
19 CAP lab director, College of American pathologists. And in
20 our case, for the US lab, also somebody that, you know -- we
21 needed somebody that could be in a similar lab director role
22 for New York State.

23 **Q.** Okay. And Mr. Reddy, is he still with PPD?

24 **A.** I believe so.

25 **Q.** But back in 2017/2018, did he -- he worked at Highland

1 Heights, right?

2 **A.** Yes.

3 MR. HANNON: Okay. That's all I have, Your Honor.

4 THE COURT: Any recross?

5 MR. CURRAN: No, Your Honor.

6 THE COURT: All right. Thank you very much,
7 Mr. McKinnon, you're excused.

8 THE WITNESS: Thank you.

9 THE COURT: Next witness?

10 MR. HANNON: Chris Clendening.

11 (The witness was duly sworn.)

12 THE DEPUTY CLERK: Can you please state your full
13 name and spell your last name for the record?

14 THE WITNESS: Chris Evan Clendening.
15 C-l-e-n-d-e-n-i-n-g.

16 THE COURT: Have a seat.

17 Go ahead, Mr. Hannon.

18 MR. HANNON: Thank you, Your Honor.

19 **CHRIS E. CLENDENING**

20 having been duly sworn, testified as follows:

21 **DIRECT EXAMINATION BY COUNSEL FOR PLAINTIFF**

22 BY MR. HANNON:

23 **Q.** Mr. Clendening, where are you from and what do you do?

24 **A.** I'm from Cleves, Ohio and I'm the SVP of labs for PPD
25 Global Central Labs, division of Thermo Fisher.

1 Q. Do you live in Ohio presently?

2 A. I do.

3 Q. And you said you're a senior vice president of Global
4 Central Labs?

5 A. Correct.

6 Q. Is that the position that Hacene Mekerri used to fill?

7 A. Yes. In essence, yeah.

8 Q. Okay. You say, "In essence," is it different now
9 somehow?

10 A. Yeah, so it's a little bit different in that at the time
11 Hacene had purview over the Central Lab and part of what we
12 call the vaccines lab. My purview is only with regard to the
13 Central Lab.

14 Q. Okay. So your role is a little bit narrower than
15 Mr. Mekerri's?

16 A. Yeah. Specific to Central Lab, yeah.

17 Q. Okay. And how many folks do you have that report to you?

18 A. About 10, 12.

19 Q. Okay. And does that include the medical director for the
20 Global Central Labs?

21 A. It does.

22 Q. And who's that?

23 A. Dr. Kashlan.

24 Q. And where does Dr. Kashlan live?

25 A. He lives in Highland Heights, Kentucky.

1 Q. Okay. And when did you move into your role as senior
2 vice president of Global Central Labs?

3 A. That would have been April-ish of 2019.

4 Q. And how did that come about?

5 A. Dr. -- or Mr. Mekerri resigned and, at the time, I was
6 positioned for that role.

7 Q. I'm sorry, you said you were positioned for that role?

8 A. Yeah, so I've been -- you know, I've been working up
9 through the organization. I've been with the organization 17
10 years, and so, you know, I was kind of in a role there, on a
11 leadership role that would be then kind of the next step
12 would be moving into that role.

13 Q. Okay. And what was your position before you -- you moved
14 into the SVP role?

15 A. I was executive director of project management and
16 project design.

17 Q. And you reported to Mr. Mekerri?

18 A. I did.

19 Q. And who -- is there someone that took your place as
20 executive director of project management and project design?

21 A. Yes. So there was -- we ended up putting -- I think at
22 that time, Olivia -- or Carolyn Jackson was put into that
23 role for project management and project design.

24 Q. And what does that role -- what is the executive director
25 of project management and project design do?

1 **A.** So it's an executive -- it's an executive director level
2 within the labs, so they're all kind of titled ED of labs.
3 And then each division within the lab then has, essentially,
4 an addendum that describes your positions. And for project
5 design and project management, if I kind of give you the high
6 level, what that is, I'll start with project design. So when
7 you receive a protocol from the client, which outlines the
8 general, how the study is going to work, how patients are
9 going to be recruited, all those types of things, we take
10 that protocol, and we translate that protocol into our IT
11 systems. Those IT systems then drive kit production that's
12 going to go out to sites and collect the blood samples from
13 the patients, the logistics. All of those types of things
14 are going to come back in and get tested and that's what the
15 project design group did.

16 And then their project management was day-to-day
17 operations of managing at sort of a client level. During
18 a -- during a clinical study, what you will see is typically
19 there's a weekly meeting that is set up. They have those
20 meetings. You're having that meeting with a client or a
21 larger CRO. And the project management of the labs is really
22 to make sure are we getting the kits out to the patients, the
23 patients are getting the correct kits, they're getting their
24 correct samples done, getting those put back into the lab,
25 and then receiving all of those. So they're sort of the

1 conductor of the train yard, as it were.

2 **Q.** Okay. So in your current role, you have Dr. Kashlan
3 reporting to you. You have a person who serves as this
4 executive director of project management and project design;
5 is that right?

6 **A.** Correct.

7 **Q.** And you heard Mr. McKinnon's testimony about the sort of
8 different functional groups represented at those daily calls?

9 **A.** Yup.

10 **Q.** Are there other folks that report to you that sort of
11 oversee those different functional groups he was alluding to?

12 **A.** Yes.

13 **Q.** And what are they?

14 **A.** So if I go through the functional groups as they exist,
15 so you've got project management and project design, which I
16 described. You'll have a data management group, so they're
17 responsible for transferring the data back to the client.
18 You have an operations lead. That operations group consists
19 of multiple departments within operations and that would be
20 what you heard, sample management, so the people that are
21 responsible for collecting the samples when they come through
22 the door. You had a GSS group, which is global site services
23 group. They're really for interacting with the sites at that
24 level. And by sites, so I clarify that, that's the doctor's
25 office, right? So they're interacting with the doctor's

1 office to make sure that they're getting all the right data
2 and all of that type of stuff is going on. You've got a
3 biorepository, which is in sample management as part of this
4 whole piece. You also have kit production and logistics,
5 which is under operations, as well. So that's manufacturing
6 that blood collection kit and getting it out.

7 The next group would be somebody like IT. So IT
8 would be represented in that group. Of course, quality
9 assurance would be there. And then you've got the clinical
10 lab operations, which would be Dr. Kashlan's group, or --
11 just to make that distinction, when you talk about Global
12 Central Labs, that's a huge umbrella, but there's a -- the
13 core function is the laboratory function, which is a clinical
14 lab division. So that's how all those groups would be kind
15 of stacked up around the Global Central Lab.

16 **Q.** Okay. And in terms of all of those functional areas that
17 you described, they all kind of work together in terms of the
18 functioning of the Global Central Labs?

19 **A.** Absolutely. And they're intimately interconnected.

20 **Q.** Okay. And since taking over as senior vice president of
21 Global Central Labs, do there still, on occasion, occur
22 quality control events?

23 **A.** Sure. Yup.

24 **Q.** That daily triage call that Mr. McKinnon testified about,
25 does that still happen as of today?

1 **A.** Yeah, unless there are no events, so there's no need to
2 have a call, if there's no events, right?

3 **Q.** Okay. But as of today, March whatever it is, 2023, no
4 one has yet succeeded in eliminating all of quality control
5 events within the Global Central Labs; is that correct?

6 **A.** That is correct.

7 **Q.** Dr. Kashlan, when did he first start working for PPD?

8 **A.** I believe he was officially hired somewhere in the April
9 of 2019 time frame.

10 **Q.** When did he first start working for PPD?

11 **A.** Same. April of 2019.

12 **Q.** Okay. He was working as a contractor before that?

13 **A.** No. Not that I'm aware of. I think that we interviewed
14 him and then brought him on board. And the only time -- the
15 only delay that I know in that was between the time that he
16 was moving from California to the Highland Heights office.

17 **Q.** Do you recall who was filling his role before then?

18 **A.** Dr. Reddy was acting CAP director.

19 **Q.** With respect to Dr. Menninger, you learned in February of
20 2018 that Dr. Menninger had a -- had requested
21 accommodations; is that right?

22 **A.** No.

23 **Q.** When's the first that you learned that Dr. Menninger had
24 requested an accommodation?

25 **A.** So the first I learned about the accommodations and the

1 details around those accommodations was only a few months
2 ago.

3 **Q.** You didn't get an e-mail from Chad St. John in February
4 of 2018?

5 **A.** I did. I've subsequently seen that e-mail.

6 **Q.** Okay. You've seen it since. Did you see it then?

7 **A.** I did not.

8 **Q.** Do you believe that it just didn't go in your e-mail box
9 or you overlooked it?

10 **A.** It's completely possible that I overlooked it.

11 **Q.** Was it your practice to watch your e-mail box carefully?

12 **A.** Yeah. On a daily basis, I triage e-mails and kind of
13 move those around, figure out what I'm going to work on on
14 that day.

15 **Q.** But you think that one you just overlooked?

16 **A.** Yeah, I don't recall receiving that e-mail.

17 **Q.** As Dr. Kashlan's supervisor, you're familiar with his
18 compensation?

19 **A.** Yes.

20 **Q.** How is he currently compensated?

21 MS. MANDEL: Objection.

22 THE COURT: How? Like just the categories?

23 MR. HANNON: We'll start there, yes.

24 THE COURT: Overruled to the extent you're
25 objecting to the categories.

1 THE WITNESS: So there's a base pay. There would
2 be a bonus. Depending on how he's performing, there could be
3 a merit increase at the end of the year for the subsequent
4 year. And then there's some gradation of options in there
5 that I'm sure that he would receive.

6 Q. Okay. When you say "options," would that be some kind of
7 an equity component to his compensation?

8 A. Yeah, like a stock option.

9 Q. Okay. Are you familiar with the stock options that
10 Dr. Kashlan has received in connection with his work as the
11 medical director for Global Central Labs?

12 MS. MANDEL: Objection.

13 THE COURT: You're asking about right now?

14 MR. HANNON: Yes.

15 THE COURT: Sustained. He worked for Thermo
16 Fisher.

17 MR. HANNON: That's not the testimony.

18 THE COURT: He testified that he works for Thermo
19 Fisher. You're asking him right now about the compensation
20 scheme right now, right?

21 MR. HANNON: Yes.

22 THE COURT: I thought he did.

23 Did you testify that you're now employed by PPD as
24 a division of Thermo Fisher?

25 THE WITNESS: Correct.

1 MR. HANNON: It's still PPD.

2 THE COURT: Yes.

3 MR. HANNON: Just because they're under the Thermo
4 Fisher umbrella doesn't make them no longer PPD.

5 THE COURT: Correct. But for relevance -- I got to
6 get at least for relevance purposes, you need a foundation
7 before you get to the -- well, you just want to find out what
8 the options are right now?

9 MR. HANNON: In the same position that
10 Dr. Menninger had, as it exists today, what's the
11 compensation?

12 THE COURT: All right. I see what you're saying.
13 Okay. I'll let you have that, but I still think there's a
14 connection issue.

15 Go ahead, I'll overrule that for now. You can
16 answer -- why don't you ask the question again.

17 BY MR. HANNON:

18 **Q.** Do you know what the equity package is that Dr. Kashlan
19 has today?

20 **A.** I do not. I do not know how those stock options are
21 allocated.

22 **Q.** Okay. Working backwards a bit, at the time that PPD was
23 acquired by Thermo Fisher, was there an award of equity to
24 Dr. Kashlan then?

25 **A.** If he had been allocated any stock options under the PPD

1 and he held those, then, yes, there would have been, because
2 it was a direct transition.

3 **Q.** Okay. So people who had stock options prior to the
4 acquisition by Thermo Fisher, those, in some respect, got
5 transferred into options for --

6 **A.** No. No. No, no, no. It was a hard line. So anything
7 that was -- that you had had prior to the acquisition was
8 cashed out and done. That was it.

9 **Q.** Okay. So anything prior to the acquisition was cashed
10 out, right? And then was --

11 MS. MANDEL: Objection.

12 THE COURT: What's the objection?

13 MS. MANDEL: This is going far afield from anything
14 that relates to the time period when Dr. Menninger was
15 employed. And we're now --

16 THE COURT: Overruled.

17 BY MR. HANNON:

18 **Q.** Okay. So the old stuff got cashed out. Was there a --
19 was there a new reward of equity?

20 **A.** There's probably a performance award in there or a time
21 award in there. I don't know what that award, the equity
22 award bucket is or what it looks like.

23 **Q.** Okay. You mentioned base pay. What's Mr. Kashlan's base
24 pay currently?

25 MS. MANDEL: Objection.

1 THE COURT: Overruled.

2 THE WITNESS: I think he's in the range of 275.

3 BY MR. HANNON:

4 Q. Do you know what his most recent bonus was?

5 A. He probably would have been in the range of 30 to 40.

6 Q. You say probably. Are you sure about that?

7 A. It's the best of my recollection. I have to review all
8 of those, a thousand peoples worth of stuff at the end. So I
9 get that all rolled up to me, and I have to review all of
10 those, but I think that's roughly about right.

11 Q. Has compensation for that role, the medical director of
12 the labs, has that generally gone up, stayed the same, or
13 gone down since the time that you've been SVP of Global
14 Central Labs?

15 A. So for the time that I've been in that role, it's been
16 about the same. I mean, you get year on year merit
17 increases, but generally what the market bears is right
18 around that level.

19 Q. And you were -- you had a role as executive director of
20 labs -- well, strike that.

21 I think you mentioned earlier -- and please tell me
22 if this is right -- that your sort of categorization within
23 the PPD structure, prior to your promotion, was executive
24 director of labs. Did I hear that right?

25 A. Correct.

1 Q. Okay. And that was a sort of -- that sort of didn't
2 describe your functional responsibility, but that's kind of
3 the categorization by PPD; is that right?

4 A. Yeah. So the level is really the hierarchy. Right? And
5 then you had your -- essentially your swim lane or your lane,
6 part of the business that you were in.

7 Q. Okay. And you were aware that Dr. Menninger, she was
8 also categorized as executor director of labs, right?

9 A. Correct.

10 Q. Okay. As executive director of labs, you had a -- you
11 had a compensation package in that role, correct?

12 A. Correct.

13 Q. Okay.

14 MR. HANNON: Your Honor, I think I have enough
15 foundation at this point to ask the question that I want to
16 ask next, but you asked me to flag it for you.

17 THE COURT: You can go ahead and ask and I'll see.

18 MR. HANNON: Sounds good.

19 So pause for your answer here and we'll see what
20 the Judge does with it.

21 BY MR. HANNON:

22 Q. When you were the executive director of labs, you had
23 stock options, right?

24 THE WITNESS: Can I answer?

25 THE COURT: Take a pause. I'll see you both at

1 sidebar just to clarify.

2 (Bench conference concluded.)

3 THE COURT: So why can't he -- I guess the -- why
4 can't he answer this?

5 MS. MANDEL: So there's absolutely no evidence on
6 the record or that could be introduced that their
7 compensation packages were relatable, that they were hired
8 with similar basis for compensation.

9 THE COURT: I guess it does establish that it is --
10 that the compensation packages were related to their level,
11 as opposed to the individualized.

12 So as to the medical director, it's the same
13 position. That's why I let that in.

14 MS. MANDEL: He's not a medical director.

15 THE COURT: But, right, he's not the medical
16 director. So I think you should ask, like, we don't really
17 know how they -- I think -- something to suggest that he
18 believes or he knew that the compensation was, like, level.
19 He was at the same level at that time as Dr. Menninger. He's
20 testified to that, executive director level, but he hasn't
21 testified that their compensation packages -- or particularly
22 what you focused on was the options and stocks, right?

23 MR. HANNON: Right.

24 THE COURT: That the options and stocks were
25 somewhat on a level basis, as opposed to individualized.

1 MS. MANDEL: Your Honor, there's also the evidence
2 in the record that he's been employed by the company for a
3 lot of years, a lot of years longer than Dr. Menninger. We
4 have no evidence as to the background of how compensation
5 levels was set, how equity was set. This is all totally
6 speculative. It's not information that's been established in
7 any way thus far.

8 MR. HANNON: Well, I've got to build to it, right,
9 and the first question I have to ask is whether or not he had
10 stock options.

11 THE COURT: And then I -- well, I think the first
12 question is not whether he had options, I think the first
13 question is whether he understands the -- well, I guess you
14 can ask him whether he had stock openings, yes or no, sure.
15 But the real question is does he know how -- for example, if
16 he says no, this isn't necessarily relevant to Dr. Menninger,
17 because the question is -- it's not evidence that she did,
18 but the real question, referring to Dr. Menninger, is what is
19 his understanding of how the compensation packages were set,
20 and were they set in a way that was class based, and what
21 were the factors that influenced it, so the jury, assuming
22 you get what you need, can infer it's what she had, right?
23 That's what you're looking for, isn't it?

24 MR. HANNON: I don't think I need to show a perfect
25 apple-to-apples match.

1 THE COURT: No.

2 MR. HANNON: Right.

3 THE COURT: But what do you want him to infer from
4 his testimony? What do you want them to draw from this
5 testimony?

6 MR. HANNON: It depends on what he knows, right?
7 You know, he might have information concerning what those
8 options that she had were worth. He might have information
9 in terms of, you know, what they would have turned into or if
10 they would have gone to --

11 THE COURT: So I guess there's two different
12 questions, what are they worth, and what might she have.

13 MR. HANNON: Yeah. Right.

14 THE COURT: You can ask him about -- I think you
15 can -- you've established enough that you can ask him
16 questions about what they might be worth.

17 MR. HANNON: Right.

18 THE COURT: As to things that relate to what she
19 might have, I don't know that you have any basis that he
20 would know, necessarily -- I'm not saying he doesn't, but I
21 don't understand he has any basis to even know that as to
22 that time, which would be relevant.

23 MR. HANNON: Understood.

24 MS. MANDEL: Your Honor, I think there's still also
25 no basis from which the jury could infer and I think it could

1 confuse the jury that there's any correlation between, not
2 only base compensation or bonus, but also whether his equity
3 is relatable to his position. They're --

4 THE COURT: But he's not asking so much about how
5 much equity he has. I don't think it's particularly relevant
6 how much equity he has, it's relevant as to what he knows
7 about either the price or about how it's ordered. And if
8 it's ordered to a class base -- I mean, a level base is like
9 executive director. Because that's what would be relevant.
10 Just he may -- not particularly. I mean, there are too many
11 distinguishing factors between him and her that don't really
12 have much meaning to how -- as executive director. Like he
13 wasn't the same level, but he's not an MD, I assume.

14 MS. MANDEL: And their type of hire was completely
15 different.

16 THE COURT: And so I don't know, like -- and you
17 already have information that goes to her compensation here,
18 but the relevant comparator. The real issue is the stocks
19 and the options, I think, is what's driving it.

20 MR. HANNON: Okay. I think I have it clear sort of
21 picture of where you're wanting me to go.

22 (Bench conference concluded.)

23 THE COURT: Go ahead.

24 MR. HANNON: Thank you, Your Honor.

25 BY MR. HANNON:

1 **Q.** So Mr. Clendening, when you were in that EVP -- I'm
2 sorry, when you were that ED of labs category, you were
3 awarded stock options; is that right?

4 **A.** Correct.

5 **Q.** Okay. And you had -- do you recall the stock options
6 being broken up into Chapter 1 and Chapter 2?

7 **A.** Yeah, I believe.

8 MS. MANDEL: Objection.

9 THE COURT: Overruled.

10 You can answer.

11 BY MR. HANNON:

12 **Q.** And the Chapter 2 -- the Chapter 1 options, they had been
13 awarded some time in the 2015-'16 time frame; is that right?

14 **A.** I don't recall the exact dates, but --

15 **Q.** Okay. And the Chapter 2 options, those came about
16 because there had been a -- within like a restructuring of
17 some sort; is that right?

18 **A.** Correct.

19 **Q.** Okay. And I'm going to show you a document here, which
20 the jury saw a while back. So this is Joint Exhibit
21 Number 33. And I got to plug my thing in here. I'm sorry.
22 And if you see here, these are options granted in July of
23 2017. Do you see that?

24 **A.** I do.

25 **Q.** Okay. And I'm going to show you -- well, the top here,

1 "Eagle I" options, do you see that?

2 **A.** I do.

3 **Q.** Do you recall that being the Chapter 2 options?

4 **A.** I don't recall whether that was Chapter 2 or Chapter 1.

5 **Q.** Okay. I'm going to show you Joint Exhibit 35 and I'll
6 see if that refreshes your recollection.

7 So you see here, we have a document showing options
8 with a grant date of December 29, 2015. Do you see that?

9 **A.** Uh-huh. Yes.

10 **Q.** And you see these are called, "X-Co options." Do you see
11 that?

12 **A.** Yes.

13 **Q.** Okay. So would you agree with me, these are the Chapter
14 1 options and the Eagle I options are the Chapter 2 options?

15 **A.** Yes, but I don't recall them being called "X-Co options,"
16 but...

17 **Q.** Okay. And in your role as ED of labs, did you have
18 Chapter 1 and Chapter 2 options?

19 **A.** Yes.

20 **Q.** Okay. When PPD went public, what happened to your
21 Chapter 1 options?

22 **A.** I don't recall how they handled those, whether they
23 rolled those over. But there was no -- there was -- let me
24 think about that. There may have been some pay out of those
25 at that time, if I recall.

1 **Q.** Okay. Do you have any knowledge or information
2 concerning the -- the value of those options at that time?

3 **A.** No, I don't.

4 **Q.** Okay. Do you recall how many -- how many Chapter 1
5 options that you had at the time of the -- at the time PPD
6 went public? Just a yes or no question first.

7 **A.** I do not recall.

8 **Q.** Okay. And same question with respect to Chapter 2
9 options. So let me show you P-94. Do you have any knowledge
10 or information concerning what the Chapter 2 options were
11 worth at the time of PPD going public?

12 **A.** No, I do not.

13 **Q.** Okay. Do you know how many Chapter 2 options you had?

14 **A.** I do not.

15 **Q.** You see here that Dr. Menninger had 25,660. Do you see
16 that?

17 **A.** I do. About 25,000?

18 **Q.** I'm sorry, it could be 25,000?

19 THE COURT: I couldn't hear you.

20 THE WITNESS: You said 25,000 -- oh, you're saying
21 the total options granted. I was looking at the vested.

22 MR. HANNON: No worries.

23 BY MR. HANNON:

24 **Q.** To your recollection, is that approximately how many you
25 had?

1 **A.** I don't --

2 MS. MANDEL: Objection.

3 THE COURT: Sustained.

4 BY MR. HANNON:

5 **Q.** To your knowledge, did ED of labs, did that position
6 generally have equivalent equity packages?

7 **A.** I don't know if that's the case or not.

8 **Q.** Okay. Currently, do folks at the ED of labs level have
9 equivalent equity packages?

10 **A.** I do not know if they do.

11 **Q.** Subsequent to -- well, strike that.

12 Were you still in -- in the ED of labs role when
13 PPD went public?

14 **A.** Yes.

15 **Q.** And at the time that PPD went public and you were in that
16 ED of labs role, did you receive any additional equity? Just
17 yes or no.

18 **A.** I don't recall.

19 **Q.** Okay.

20 MR. HANNON: That's all I have, Your Honor.

21 THE COURT: All right. Any cross-examination?

22 MS. MANDEL: Yes.

23 THE JUROR: I actually have a question.

24 THE COURT: Sure. I'll take it.

25 THE JUROR: Just a little context, just to

1 understand the timeline.

2 THE DEPUTY CLERK: Okay. So part of it is a
3 question for the witness and part of it is for -- question, I
4 guess, for the two of you, why don't you -- Ms. Belmont will
5 let you take a look at it and I think the first
6 question is -- if you wish to ask --

7 THE JUROR: The top part.

8 THE COURT: Right. The first part is the question
9 for the witness and I think -- you can take a look at it.
10 The first part seems like a perfectly permissible question to
11 me, if the two of you are amenable.

12 I think the second part is informational for the
13 two of you.

14 MR. HANNON: If I may, I'll follow-up on that.

15 THE COURT: The question, the first question.

16 MR. HANNON: Yes.

17 THE COURT: Go ahead.

18 We'll take that back.

19 If you want to look at it -- you can keep it for
20 now, Ms. Mandel.

21 MS. MANDEL: I just wanted to write it down.

22 THE COURT: Okay. Go ahead.

23 BY MR. HANNON:

24 **Q.** So you took over for Mr. Mekerri in April of 2019 you
25 said; is that right?

1 **A.** Yeah, I think that's when I officially took the role. He
2 had left prior to that.

3 **Q.** Okay.

4 **A.** He had left the organization -- I remember when he left.
5 I don't remember the exact day, but I remember when he left
6 because -- so that would have been in the -- probably in the
7 January/February time frame, I think, is when he left, only
8 because I remember having to do the merit bonus pool cycle to
9 get that completed in a timely manner for that to roll out.
10 So it would have been in it a time frame. It could have
11 been -- I guess it could have been as late as February/March
12 time frame, but that's when he left.

13 **Q.** But that's 2019?

14 **A.** '19.

15 **Q.** Right. Okay.

16 **A.** Yes.

17 **Q.** The prior February, so February of 2018, Mr. Mekerri, he
18 hadn't left yet, right?

19 **A.** Correct.

20 **Q.** Okay. Had you taken over any of Mr. Mekerri's
21 responsibilities as of that date?

22 **A.** No. Other than -- so if you're talking about what my
23 responsibilities were?

24 **Q.** No, I'm asking about whether or not you had taken on any
25 of Mr. Mekerri's responsibilities, had you?

1 **A.** No.

2 **Q.** Had you started to transition into Mr. Mekerri's role as
3 of that date?

4 **A.** No.

5 **Q.** Was there some interim role that you had taken on as of
6 that date?

7 **A.** I did take on additional -- so you're talking about
8 spring of 2018?

9 **Q.** February of 2018?

10 **A.** Yeah, I took on additional roles there, in February of
11 2018.

12 **Q.** What were those additional roles then?

13 **A.** So I took on what was called the North American site head
14 role. And so that role was really to try to help and
15 buffer -- so having three locations and having communication
16 across all of those locations was tough. And you had quality
17 issues, quality events, investigations that were going on.
18 So you really needed a site head for a North America, site
19 head for EU, a site head for APAC, and so I had taken on that
20 role as a site head for North America.

21 **Q.** Okay. And did you have folks that reported to you in
22 that role?

23 **A.** No, it was purely a title role. It was a dotted line,
24 having conversations with different folks.

25 **Q.** Did you have any supervisory responsibilities over

1 Dr. Menninger in that capacity, in that role?

2 **A.** No.

3 **Q.** Did that role require you to have knowledge of any
4 disability she might have?

5 **A.** No.

6 **Q.** Did that role require you to have knowledge of any
7 requests for accommodations she had made?

8 **A.** No.

9 MR. HANNON: And that's all I have.

10 THE COURT: All right. Ms. Mandel.

11 **CROSS-EXAMINATION BY COUNSEL FOR DEFENDANT**

12 BY MS. MANDEL:

13 **Q.** Good morning, Chris.

14 **A.** Good morning.

15 **Q.** You testified a little while ago that you live in Ohio.
16 Did I get that right?

17 **A.** Yeah. So if you think about where the Central Lab is, in
18 Highland Heights, Kentucky, nobody knows where that is, so
19 that's actually across the river from Cincinnati, Ohio, so
20 it's right within the Kentucky, Ohio, and --

21 **Q.** And I -- I heard you say that you do work daily in the
22 Highland Heights location?

23 **A.** I do.

24 **Q.** Is that right?

25 And how long have you worked for the company?

1 **A.** 17 years.

2 **Q.** Can you please describe for the jury, so that we
3 laypeople can understand, what type of work is done out of
4 Central Labs in Highland Heights?

5 **A.** So the primary focus, beyond all, is the clinical
6 laboratory testing. So that is akin to if you went to your
7 doctor's office, you got a blood sample taken, you go, you
8 get your cholesterol back, you get all of those kind of
9 stats, that's the type of testing that we do. It's a little
10 bit more in depth in that, in that we're looking for
11 particular markers that may show, you know -- that have
12 safety concerns, so liver enzymes would be a perfect example
13 for that. You're looking for those types of markers, and
14 reporting those back to the physician, so that they can
15 provide care to their patient. That's the primary focus of
16 the Central Lab. But under that umbrella, there are multiple
17 departments or wrap-around services that then help us
18 actually obtain those samples. We mentioned the project
19 management, the project design, they're setting up all of
20 that protocol. And then there's kits that are being produced
21 that are specific to that protocol. There's kits that are
22 then going out to the doctor's office. That's part of your
23 logistics team and your operations team. The samples are
24 being collected at the doctor's office. Again, those are
25 coming back through the logistics team. They come in through

1 the sample management team. They're accepting those samples.
2 Those samples are then passed off and transitioned to the
3 clinical laboratory division within Central Lab. They test
4 and run those samples. Those results are then reported back
5 out to the doctor so that he can look at those and say, okay,
6 this is how it's going. And then when the whole trial is
7 over, there's a data management team that takes all of that
8 data that's been collected through the entire trial, and we
9 pass that over to the client, which is typically a pharma
10 company, and they use that data to submit to the FDA to say
11 this is our drug. We feel it's safe. You know, here's all
12 the data that we have around that. And there's also data --
13 our primary focus is around whether that's safety, but there
14 are other pieces of that that would say, well, is there an
15 efficacy here, right? So is the drug doing what it's
16 supposed to do.

17 **Q.** Can you describe the physical setup of the lab building
18 in the Highland Heights?

19 **A.** So it's two floors. But beyond that, it's really -- it's
20 really divided into office space, clean area, as we call it,
21 and dirty area. And the dirty areas would be places where
22 you have to wear personal protective equipment. You got to
23 remember that there's blood samples, urine samples, all kinds
24 of samples that are coming in there. You have to assume that
25 those are infectious, right? So there's infection and

1 control measures. So there's dirty areas of the building and
2 then there are clean areas of the building.

3 **Q.** And the clean area of the building, that's where there
4 are offices?

5 **A.** Yes.

6 **Q.** Do you have an office in that area?

7 **A.** I do.

8 **Q.** Who else has an office in that area of the building?

9 **A.** So if I think down the wall, currently as it stands, so
10 you have Narine, who is the senior director, which she was
11 mentioned earlier. She's a senior director of the lab.

12 We have a temporary office that gets shared between
13 a couple of folks from operations and from data management,
14 they're sharing that office, because we've run out of space.
15 Dr. Kashlan's office is there. I'm trying to think if there
16 are any other offices available. We have a facilities office
17 right there. We have a health and safety person that's on
18 site in their offices there. And then we have some general
19 offices that people can kind of pop in and out of.

20 **Q.** In the lab space that you described, again, for us
21 laypeople, who is working in the lab, and what are they doing
22 on a daily basis?

23 **A.** Mostly people that are working in the lab are -- really
24 from a supervisory level down. So you do have some
25 supervisors that are spending time at the bench, and by

1 bench, I mean, you know, they're running samples. And then
2 most of the other folks would be med techs or lab assistants.

3 **Q.** Are any of those folks doctors?

4 **A.** No.

5 **Q.** Let's look at an organizational chart from the time
6 period of 2018. You have in front of you -- this is a
7 document that's marked as agreed Exhibit 17. Do you
8 recognize this document as an organizational chart from
9 around the time period of 2018?

10 **A.** I do.

11 **Q.** Can you please explain for us what is depicted in this
12 organizational chart?

13 **A.** Yes. So the -- I mean, we can go to the top level, David
14 Simmons and Bill Sharbaugh. Those were the parent -- PPD
15 part of the organization, and then the PPD organization was
16 split into a lab services group and kind of nonlab services,
17 so Chris Fikry was over at the lab services group. He
18 oversaw all of the divisions of labs that we had. And then
19 Hacene Mekerri would have been over, as the VP of Global Lab
20 Services at that time, was over the Central Lab. And you can
21 see all the folks, and I'll kind of go through those, left to
22 right, myself, Els Pluymers, Esther E. All of those
23 divisions are -- even though they're monikered as ED of the
24 labs, they all have their swim lane, or they were their own
25 division.

1 For me, at the time, I would have been over project
2 management, project design. Els would have been over
3 operations. Esther headed up the APAC group. John would
4 have been over data management. Lisa would have been over
5 the clinical laboratory piece. Megan would have been the
6 executive admin. And then Pierre Joliceur was on the
7 vaccines, so it was a different business unit from Central.

8 **Q.** And just for all of our edification, I know you said
9 Esther E. was over APAC. Was that Asia Pacific?

10 **A.** Oh, yes. So that would have been our Singapore lab and
11 our China lab.

12 **Q.** And you mentioned this, Chris, that a few of the folks on
13 that organizational chart, including you and Els and
14 Dr. Menninger, all have that title listed there as ED of
15 labs, or ED labs?

16 **A.** Uh-huh.

17 **Q.** Does that mean you all had the same job?

18 **A.** No.

19 **Q.** In what ways were your jobs distinguished?

20 **A.** So really it was around the experience that you either
21 had to fulfill that role, or your credentials. That's really
22 how it kind of boiled down. So you know, there were distinct
23 lines within the business. For me, project management, and
24 prior to this org chart, I had run operations, so I had --
25 Els and I were switched in 2017. But in general, it really

1 depended on what your experience level was, to whether you
2 could fulfill the requirements of that job. The one
3 exception of that would have been, really, around the
4 clinical lab division. That is specially credentialed,
5 right? You have to be credentialed with CAP, CLIA, iso -- we
6 won't go into iso, but New York State. But all of those
7 credentials were necessary to be the lab director of the
8 clinical diagnostic.

9 **Q.** And when you say "lab director," that's that swim lane
10 under Dr. Menninger's name?

11 **A.** Correct.

12 **Q.** And are you a medical doctor?

13 **A.** I am not.

14 **Q.** And safe to say you were not a medical doctor in
15 2017/2018?

16 **A.** I am -- nope.

17 **Q.** And to your knowledge, was Els a medical doctor in 2017
18 to 2018?

19 **A.** No.

20 **Q.** I'm going to show you a different document now, Chris.
21 This is a job description, Chris. It should be showing up in
22 front of you, it says "ED labs"?

23 **A.** Uh-huh. Yup. I see it.

24 **Q.** Thinking back to that time period of 2017/'18, was this
25 your job --

1 THE COURT: What's the Exhibit number, just for the
2 record?

3 MS. MANDEL: I'm sorry?

4 THE COURT: What Exhibit number?

5 MS. MANDEL: Oh. 171.

6 THE COURT: 171. Go ahead.

7 BY MS. MANDEL:

8 Q. Was this your job description, Chris?

9 A. Is there only a single page to this?

10 Q. No. We can -- let's go through the pages. So there's --
11 that's the first page. This is the second page.

12 A. Yeah, okay. Go ahead.

13 Q. This is the next page. And then there's also an
14 addendum, as well.

15 A. Yeah, and that's -- that would be the differentiator,
16 right? Would be the addendum.

17 Q. And how do you know, looking at this addendum, that this
18 wasn't your job description?

19 A. You can't serve -- you have to be accredited, again, a
20 MD, a clinical pathologist to be able to be for New York
21 State accreditation, and to have those qualifications.

22 Q. And I know you testified a little while ago that at times
23 you had done operations, at times you had done project
24 management. Could you have taken over Dr. Menninger's role
25 over the lab itself?

1 **A.** No, I could not.

2 **Q.** Why is that?

3 **A.** Because I don't carry those credentials. I am not an MD
4 nor a Ph.D.

5 **Q.** Chris, can you describe for the jury, what was the
6 trajectory of the Central Lab business in sort of the
7 2017/2018 time period?

8 **A.** So 2017/2018 was a prepare for growth year. Probably
9 even stretching back into 2016. So all of those years, we
10 were really focused on how do we grow the business. So it
11 was relatively flat, from a revenue/income standpoint. And
12 so there was a lot of focus on what would we bring to market?
13 How would we differentiate ourselves from the other Central
14 Labs out there? That's an important note. It's not just one
15 Central Lab. There are multiple Central Labs in the world.
16 And so how were we going to catapult ourselves into the next
17 level and transform the business to --

18 **Q.** Did this require any changes in the approach that
19 business leaders were expected to take as you went from 2017
20 into 2018?

21 **A.** Yeah, it was a tough -- because it was -- everybody --
22 the mantra around how we were running the business, so you
23 couldn't just run the part of the business that you needed to
24 run anymore. We kind of had this mantra across the board
25 where everybody was in sales. So not just your BD folks were

1 in sales, but you were in sales.

2 **Q.** Let me just stop you there. BD?

3 **A.** Yeah, so that's your business development or sales force.
4 So we all participated in trying to sell to the client or
5 have interactions with the client, so that you could learn
6 what they needed so that we could then implement that in our
7 space and then grow the business.

8 **Q.** And is that -- thinking back to likely 2017 and early
9 2018, did you feel that pressure to be more involved in
10 sales, even though your role at the time I think was project
11 management?

12 **A.** Absolutely. Every day.

13 **Q.** And how did you come to sort of feel that pressure?

14 **A.** You know, you were just -- you were getting -- so there
15 were multiple what we call bid defenses. So really -- and if
16 I classify those, a bid defense is like how am I bidding on a
17 project. But really what we were doing were operational
18 meetings, how we were talking about the client about what we
19 could offer. So there was a lot of client meetings that we
20 were going to. There was a lot of travel that was involved.
21 Because, really, the way that this system worked, right,
22 wrong, or indifferent, but this is the way that it was, is
23 that your BD folks, or your business development folks, were
24 really the ones that were connecting with the client and
25 their outsourcing teams. So they made the initial

1 introduction, and hey, can I get a meeting with you, and can
2 we talk about what we can offer to you as a Central Lab.

3 The problem with that was was that they didn't know
4 the business well enough to speak to it, so they had to bring
5 all of us along. Right? So we would go on all of these
6 trips, did a lot of travel, having conversations with a lot
7 of the pharma companies to try and sell, you know, our part
8 of the business, or listen to them and say, well, what could
9 we do differently?

10 **Q.** How did you come to be aware of this increased
11 expectation that you were feeling?

12 **A.** Well, so that comes from the highest levels down, right?
13 So I think as an overall PPD business, right, there was a
14 push to make sure that we were hitting revenue targets and
15 stretch goals to make additional revenue. And so that was an
16 overarching goal for all of PPD. And then each business
17 unit, which labs, Global Central Labs would have been no
18 different, you know. You would get a target on this is where
19 we think you guys need to be for the next year, and so you
20 would have to try and sell from that. And so that would come
21 down through Chris Fikry and Hacene, and you -- that's kind
22 of your goals for the year is that, hey, we want you to take
23 on this.

24 **Q.** And given this environment that you've described in
25 2017/2018, did the company's style of interacting with

1 customers change during this time period?

2 **A.** Yeah, so we went from one of the things -- and it still
3 exists today, actually. So one of the transitions that we
4 went through was that we became high touch with the clients.
5 So you can exist as a Central Lab and just do the kind of
6 meat and potatoes testing that you always do, but it's really
7 not going to get you anywhere as far as growth. Right? They
8 wanted to see, well, what kind of novel ideas were you
9 bringing to the market. And so we were pushing new IT
10 systems out into the market. We were having conversations
11 with clients about what do those IT systems need to look like
12 that better serves you. From my perspective and project
13 management, I was having discussions about, well, how do you
14 want project managers to interact with you. Do we need to
15 remodel or reshape the way the project management looks. Are
16 there going to be new tests, right?

17 So one of the big things is that in clinical
18 trials, as we see today, it's an ever changing dynamic on
19 what you're going to be working on. Prior to COVID, you
20 know, there was a lot of oncology research, diabetes,
21 metabolic research going on, and then boom, suddenly you had
22 COVID, and everybody switched gears to doing COVID work. So
23 there was a lot of conversation going on about how do we do
24 that. So it was a really high touch, a lot of interaction
25 with the outsourcing folks, a lot of the science folks would

1 get involved, because you're trying to figure out what test
2 you're going to bring out, because you wanted to have those
3 ready by the time you got the clinical trial ready. So it's
4 pretty dynamic during that period.

5 **Q.** Chris, you testified already a little bit this morning
6 about the time period where you and Dr. Menninger were both
7 reporting up to Hacene Mekerri; is that right?

8 **A.** Uh-huh.

9 **Q.** And just in sort of laymen's terms, how would you
10 describe your role relative to Dr. Menninger's role at that
11 time?

12 **A.** Yeah, so we were just colleagues, right, working under
13 the same umbrella. She led the clinical laboratory division
14 and I led the project management and project design division.

15 **Q.** And you testified a little earlier that, at some point in
16 early 2018, you took on some additional administrative
17 responsibilities at Central Lab?

18 **A.** Yeah, I took on the North American site head role.

19 **Q.** And as site head, did you generally stay abreast of
20 staffing availability for the lab business?

21 **A.** Yeah, that was one of the tasks that was part of that
22 role, was that even though maybe a function didn't report to
23 you, you were trying to keep the -- everything functioning at
24 a local level. So not just a global level, so my purview for
25 project management and project design would have been

1 globals. So I was managing all of the global project
2 management and project design. Now, on a local level, in the
3 North America site, I would help, you know, manage if there
4 were staffing issues, in that period of time, as I remember
5 it, one of the things that came up was the high incidents of
6 flu. That, oddly enough, was a precursor to COVID. But one
7 of the things in that site role -- that North American site
8 head role would have done was do I need to send
9 communications out to sample management to make sure that
10 they're staffed, you know, get a pulse check, are you okay,
11 do you have a lot of folks that are out sick, we want to make
12 sure that we're still able to receive all the samples that
13 are coming in, just generally aware of what's going on within
14 the organization, so that you can make sure that there wasn't
15 anything that was -- where the wheel was going to fall off
16 the bus, as it were.

17 **Q.** So even for people who didn't technically report to you,
18 you had to be aware of staffing availability?

19 **A.** Yup.

20 **Q.** And you testified earlier this morning that it was -- I
21 think you said a few months ago, that you learned that at
22 some point Dr. Menninger had disclosed a disability to PPD?

23 **A.** That's correct.

24 **Q.** So safe to say, were you aware at any point in 2018 that
25 Dr. Menninger had disclosed a disability at PPD?

1 **A.** I was not.

2 **Q.** Did Mr. Mekerri ever mention to you that Dr. Menninger
3 had disclosed a disability?

4 **A.** Did not.

5 **Q.** Do you recall learning at some point that Dr. Menninger
6 had asked to relocate to Massachusetts?

7 **A.** I do, yes.

8 **Q.** And prior to that, had you seen Dr. Menninger on a
9 regular basis in Highland Heights?

10 **A.** Yeah, I would frequently visit her office down the hall.

11 **Q.** Did you have an opinion as to whether Dr. Menninger's
12 request to move to Massachusetts would work for the business?

13 **A.** I did have an opinion.

14 **Q.** And what was that opinion?

15 **A.** I was concerned that you would be able to have that role
16 being remote.

17 **Q.** Did you communicate this to Mr. Mekerri?

18 **A.** I did.

19 **Q.** And how did Mr. Mekerri respond to you about that?

20 **A.** So Mr. Mekerri had a way about him. So it was in one of
21 our one-on-ones, and I said, "Look, is this something really
22 that's feasible," right, "based on how we're interacting and
23 doing a lot of things?"

24 And he would give me the -- he gave me the hand
25 signals a lot of times when he wanted me to essentially end

1 the discussion and say he's got it under control, and that
2 was kind of what I got.

3 **Q.** From a practical standpoint, in your role in operations
4 and then in project management, how did it impact things for
5 your work when Dr. Menninger was no longer on site on a
6 regular basis?

7 **A.** I think probably the biggest piece -- or the biggest
8 piece that it would have impacted were the interactions,
9 right? So during that time, it was really important that we
10 were all having day-to-day interactions. So there was a lot
11 of brainstorming that was going on. They were having a lot
12 of discussions. There were a lot of quality events that were
13 coming up in different departments. And so you had to go
14 through and have those discussions to make sure that
15 everything was kind of staying on track.

16 And then in addition to that, I think you always
17 had the -- you had the looming New York State inspections and
18 CAP inspections and all of those types of things that we had
19 to make sure that we were doing, and I just felt that not
20 having that interaction on a daily basis and being able to
21 discuss the finer points of some of the things that you have
22 coming up, it made it tough.

23 **Q.** Did you ever hear Mr. Mekerri say anything negative about
24 Dr. Menninger?

25 **A.** No.

1 **Q.** How would you describe Mr. Mekerri's management style?

2 **A.** Mr. Mekerri was a bit hands-off. So he liked to fly at
3 30 to 50,000 feet, as it were. And then most of the time
4 what he would do is -- he relied on us heavily, right, and
5 delegated all of that, those actions to us. So he really
6 just kind of delegated things to your swim lane.

7 **Q.** What was your understanding of Mr. Mekerri's expectations
8 of his team of executive directors during that, sort of,
9 2017/2018 business build-out that you've described?

10 **A.** So I think, in short, you know, we had these kind of mini
11 business units under the Central Lab, and you were
12 accountable for your business unit. So he was looking to you
13 to -- if you needed to streamline something, if you had
14 quality events that you needed to deal with, if you had
15 innovations that you wanted to launch within your team, then
16 that was under your purview, and you were held accountable to
17 that.

18 **Q.** And you said to be "held accountable"; what did that mean
19 to you, to be held accountable?

20 **A.** I mean, at the end of the day, it's your part of the
21 business to run, and if you failed in that piece of the
22 business, then you, you know -- it was -- it ended up on your
23 year-end review. And if you, you know, succeeded, that ended
24 up on your year-end review, as well.

25 **Q.** And when you say be held accountable, was it your

1 understanding that being held accountable meant that you were
2 personally responsible for any issues that came up?

3 **A.** Yeah. To some degree, I think that was the case, right?
4 It was your part of the business to run it, so you're
5 accountable for running that piece of the business.

6 **Q.** Let's look at another document. This is Agreed
7 Exhibit 291? And I'm just going to show you -- can you see
8 this document in front of you?

9 **A.** Yes.

10 **Q.** And I'll just show you, it's an e-mail correspondence
11 that goes back some time in May of 2018. But I want to focus
12 your attention on the first page of this document. You'll
13 see at the top, there's an e-mail from Dr. Menninger to
14 Mr. Mekerri and to you, and it copies Mr. McKinnon, who was
15 just in the courtroom a bit ago, and Mr. St. John. And in
16 this e-mail, Dr. Menninger indicates, "Hi Hacene. Yes, I've
17 been involved. I was corresponding with Jay about this issue
18 last week. We're meeting daily about the root cause for the
19 latest issue involving improper sample storage temperature is
20 under investigation."

21 And then beneath that, you see an e-mail from
22 Mr. Mekerri, and that went to Els Pluymers, whose name we
23 just saw a little while ago, you, and Dr. Menninger. Can you
24 explain your understanding of what was going on in this
25 e-mail correspondence?

1 **A.** Yeah. If I recall --

2 MR. HANNON: Objection.

3 THE COURT: What's that --

4 MR. HANNON: Relevance to his understanding. He
5 can talk about what the underlying actions are, but in terms
6 of what people meant in their e-mail, his interpretation
7 isn't relevant.

8 THE COURT: Why don't you rephrase the question.

9 BY MS. MANDEL:

10 **Q.** The e-mail that's in the bottom half of the page, Chris.
11 Do you see that?

12 **A.** Yes.

13 **Q.** And you received that e-mail; is that right?

14 **A.** I did.

15 **Q.** And this e-mail, the first sentence says, "Lisa, Els,
16 involving you here as well to make sure that you're on top of
17 this serious issue."

18 Do you see that?

19 **A.** Yes.

20 **Q.** And then the next sentence down says, "You and Chris."
21 Is it your understanding that that Chris is you, given that
22 you received this e-mail?

23 **A.** Yes.

24 **Q.** "Please work together with QA to resolve the shared
25 responsibilities."

1 **A.** Yes.

2 **Q.** What do you recall understanding your role being when you
3 received this e-mail from Mr. Mekerri?

4 **A.** So there's a lot of aspects to this. I probably need to
5 explain why that's important. So samples being stored
6 improperly, I think we talked about root cause. So when that
7 happens, and occasionally it does, you need to be aware of
8 there are going to be multiple groups that are going to be
9 involved in that. Number one, the group, sample management,
10 right? Why did they store those improperly. That's the
11 first issue, but we talked about how you have corrective
12 actions, right, and preventative actions. But one of the key
13 things is that we'll rank whether this is minor or major or
14 critical, is are those samples still viable. But that's a
15 lab component, so we're going to have -- so that's why you're
16 seeing many people involved here. So from a lab standpoint,
17 do we feel like these samples are still viable. From an
18 operations standpoint, which would have been Els at the time,
19 hey, what did you do in sample management, what do you got
20 going on there? How did this happen? And then why was I
21 involved would have been from a North American site head
22 standpoint, and probably my depth and breadth in running
23 operations six years prior to Els.

24 **Q.** And when you received this e-mail on May 14, 2018, did
25 you understand this as indicating that you, yourself, were

1 responsible for any challenges with sample management or
2 sample storage?

3 **A.** No, not me for sample storage. That would have been on
4 Els's purview.

5 **Q.** But you did receive this e-mail with a directive to you,
6 so why would you have gotten that e-mail, if you were not
7 responsible for sample storage?

8 **A.** Because it happened in North America, and so they wanted
9 me to assist in that investigation, and help run that down.

10 **Q.** When you received this e-mail correspondence that May,
11 did you perceive this as disciplinary towards you?

12 **A.** No.

13 **Q.** Why not?

14 **A.** These kinds of things, I hate to say they happen all the
15 time, but these types of things happen. And so really, it's
16 about, hey, can you get this investigation done.

17 The other piece of this, I think, that is
18 important, probably, to understand from a lab perspective --
19 and I mean Central Lab perspective, these investigations, I
20 think you heard before, are important because we are dealing
21 with patient samples. It's not something where you can go
22 back and get this. And there's an entire sense of urgency
23 around how you deal with that, when you have something that
24 is impacted. Patients have spent time to donate this.
25 They've enrolled in these trials. Clients have money that is

1 invested in these types of things. It's super critical when
2 things like this happen. And they reach -- if you read
3 through that e-mail, they reach the highest levels of the
4 organization, and then came back down to say, hey, can you
5 get this -- make sure that this is under control.

6 So there's a real sense of urgency around making
7 sure that you find out why this happened, how you stop it,
8 and how you're going to prevent it from happening again,
9 because it's dealing with patient samples. And so when I see
10 these kinds of e-mails, in fact, I issue these kinds of
11 e-mails today, to say, hey, we got to get this taken care of,
12 and get it taken care of in a timely manner.

13 **Q.** Is that what you meant by accountability?

14 **A.** Yeah.

15 **Q.** And you just referenced these kinds of e-mails that you
16 received. As far as you recall during this time period, were
17 you receiving other e-mails along these lines from
18 Mr. Mekerri?

19 **A.** Oh, yeah, I would have received -- so this would have
20 been an e-mail that I got pulled into from -- you know, from
21 a site head standpoint, but I would have also received
22 e-mails on the project management and project design front.

23 **Q.** And thinking back to when you were working more on the
24 operations side of things, did you ever have occasion to
25 become aware of quality issues?

1 **A.** Yes.

2 **Q.** How would you become aware of those?

3 **A.** So typically you become aware of quality issues in one of
4 two ways. Either you find it internally and it's surfaced
5 that way, and there's an event created, and you go through
6 the event process. Or it comes through external channels, so
7 typically, either from a contract research organization, so
8 somebody that's helping run the trial, or the client
9 themselves, will say, hey, we've spotted a problem, can you
10 take a look at this. And then that rolls into the quality
11 event system.

12 **Q.** And you've mentioned quality a number of times. And we
13 heard from Mr. McKinnon this morning, why is quality so
14 important in the lab context?

15 **A.** Well, because there's no -- there are no second chances,
16 right? Again, these are patient samples. There's no
17 do-overs, right? It's super important that you get it right.
18 There are some opportunities, you know, to go back and maybe
19 get a blood sample, but some of these trials, you're talking
20 about oncology, you're talking about tumor biopsies, and
21 slides and things that you'll never get again once they're
22 taken. So there's a sense of urgency around that whole
23 piece.

24 **Q.** Does that mean that there is an expectation in the
25 business that quality is always perfect?

1 **A.** No. I mean, I think that -- I don't think that you can
2 ever have a perfect scenario, right?

3 **Q.** If that's the case, how would you explain communications
4 about having zero errors as a goal?

5 MR. HANNON: Objection.

6 THE COURT: Overruled, if he knows.

7 THE WITNESS: I'm sorry, the question was?

8 BY MS. MANDEL:

9 **Q.** You testified just a moment ago, Chris, that it's not
10 achievable to have perfect quality, right?

11 **A.** Uh-huh.

12 **Q.** If that's the case, how would you explain communications
13 setting zero errors as a goal?

14 **A.** Well, I think that's fine to have a goal, right? I'm not
15 sure it's achievable. And there's some realism there. But,
16 you know, look, you -- again, these are patient samples, you
17 do want to try to get that right as much of the time as you
18 can.

19 **Q.** What was Mr. Mekerri's role, as far as you understood in
20 2017/2018, with regard to quality issue in the lab?

21 **A.** Mostly directing where the communication was going to go.
22 So if he were to find out something from either a client or
23 from the CRO side of the business, then typically he would be
24 receiving that and directing it to whatever department needed
25 to do the investigation particularly.

1 **Q.** At some point did you learn that Dr. Menninger was taking
2 leave from her role as executive director of labs?

3 **A.** I did.

4 **Q.** Showing you a document that's Agreed Exhibit 287. This
5 is an e-mail from Megan Groat, who you saw in that
6 organizational chart. And this is from June 5th of 2018.

7 Do you have a recollection of receiving this
8 e-mail, Chris?

9 **A.** Yes.

10 **Q.** And looking at this e-mail, this came from Mr. Mekerri,
11 and it looks like it went to a very long list of folks
12 working in the lab business; is that right?

13 **A.** Yeah, virtually everyone.

14 **Q.** And from your standpoint in your role, what impact did it
15 have for you to receive this e-mail on June 5th?

16 **A.** So my immediate thought would have been, you know, what
17 gaps are we going to have to fill, right, to keep things
18 going. I think, you know, having Dr. Reddy on there from the
19 technical lab inquiries piece, that was fine. But there were
20 probably other things that we would need to consider.

21 **Q.** And you've testified this morning that at some point
22 after you were the site head, as indicated in this exhibit,
23 Mr. Mekerri left and you took over that role, correct?

24 **A.** Correct.

25 **Q.** What -- based on your experience working in Central Labs

1 for 17 years, what is the role of the executive director of
2 the lab itself, the medical director?

3 **A.** First and foremost, right, is to oversee the lab with
4 regard to the licensures. So you're talking about CAP, CLIA,
5 iso, New York State, probably some interactions with the
6 Ministry of Health in Asia Pacific and some of those places.
7 So that is their primary focus. They're also really -- they
8 have to set the reference ranges. Reference ranges are is
9 your blood level normal or not. So if you get something back
10 on your cholesterol or your glucose, whatever you see on your
11 lab report, there's a little range there that tells you are
12 you normal or not. And they set those reference ranges and
13 evaluate those.

14 And then beyond that, the day-to-day operations of
15 the lab, making sure that everything is running smoothly.

16 And then, really, the other piece of this is
17 interacting with the clients to make sure that we have
18 line-of-sight to what their pipeline is. So oftentimes
19 you'll meet with clients and we'll say, "Okay. This is the
20 test that we have," and capabilities meeting.

21 And they'll say, "But we need you to bring up test
22 X, Y, and Z."

23 And we would evaluate that and say, well, does it
24 make sense to bring that up? Do we subcontract that out
25 through a different lab? If we do decide to bring that up,

1 and they're hoping to get that implemented, but having to
2 have that conversation on why we would need that.

3 Oftentimes there's a lot of scientific discussions,
4 and discussions that most people aren't going to pay
5 attention to from the clinical relevance to that, as far as
6 what they're bringing up. But those types of things are
7 happening on a daily basis with the lab director.

8 **Q.** And you described earlier --

9 THE COURT: I'll stop you here. We'll take the
10 morning break.

11 All rise for the jury.

12 (The jury exits the courtroom.)

13 THE COURT: How much longer do you have?

14 MS. MANDEL: A few moments.

15 THE COURT: Okay. And you?

16 MR. HANNON: Five to ten.

17 THE COURT: Okay. So we'll take a break. We'll
18 bring them back. We'll finish with this witness. That's it
19 for today, right?

20 MR. HANNON: We have a jury question.

21 THE COURT: So they would like to know why is PPD
22 HR CCed on this e-mail thread? That's their question.

23 MS. MANDEL: Did they say which e-mail thread?

24 THE COURT: No. You can look at it, but that's
25 just what it says.

1 MR. HANNON: I know what they're referring to.

2 THE COURT: But when they come back, I'll tell them
3 I gave it to all of you, and you'll follow up as you wish on
4 that.

5 MS. MANDEL: Let me make sure I heard correctly.
6 Why was HR CCed, or why were they not CCed?

7 THE COURT: Why was HR CCed. So I'll tell them
8 we're done for the day, we'll go home. I'll tell them
9 tomorrow we have two witnesses. One more witness for you,
10 which is your damage expert. And then you anticipate that's
11 the end of your evidence, and then you anticipate one
12 additional witness, which is your medical expert, right,
13 Ms. Mandel?

14 MS. MANDEL: Yes.

15 THE COURT: And then that that will be the end of
16 the evidence tomorrow, and it could be a shorter day
17 tomorrow. And I'll explain to them I have to do -- I have to
18 go over the instructions with you, I can't finish them until
19 we're done with the evidence, then we'll have closing
20 argument and charge on Friday, and they'll begin
21 deliberations on Friday.

22 All right. Anything else?

23 MR. HANNON: May we hear who the juror was that
24 provided the note?

25 THE DEPUTY CLERK: It is the juror in the second

1 seat in the front row, number 35.

2 THE COURT: It's not signed, but that is the person
3 that gave it to her.

4 All right. Anything else? And the note that came
5 up, you had it, Ms. Mandel, which is fine, but did you give
6 it back?

7 MS. MANDEL: I believe I returned it.

8 THE COURT: Okay. Perfect. And you can look at
9 this one if you want, but then give it back to Ms. Belmont.
10 All right. We'll stand in recess for 15 minutes.

11 (Court in recess at 11:17 a.m.
12 and reconvened at 11:31 a.m.)

13 THE COURT: Kellyann, you can go get the jury.
14 (The jury enters the courtroom.)

15 THE COURT: I passed along your question to the
16 lawyer, the lawyer -- the one you handed up as you were
17 walking out, and one or both of the lawyers will follow up on
18 that.

19 BY MS. MANDEL:

20 Q. Chris, before we took a break --

21 THE COURT: Just for everyone else, because they
22 might not have read it, the question was why was the HR
23 director or the HR person CCed on this e-mail.

24 BY MS. MANDEL:

25 Q. Before we took a break, Chris, we looked at a couple of

1 e-mails, and we're going to look back at them to talk about
2 the question that's just come up.

3 First looking at Exhibit 287, this is the
4 announcement message that came from Mr. Mekerri -- actually,
5 sent by Megan Groat, but the message was from Mr. Mekerri.
6 Do you see that in front of you?

7 **A.** Yes.

8 **Q.** And as we mentioned, we looked at this document, and
9 there are a lot of people that are listed in the "to" line
10 and the "CC" line. That's where we found your name. Do you
11 see that?

12 **A.** Yes.

13 **Q.** And in addition to your name in the CC line, I see Chad
14 St. John?

15 **A.** Yes.

16 **Q.** And Chad St. John worked in HR?

17 **A.** Correct.

18 THE COURT: Keep your voice up.

19 THE WITNESS: Sorry.

20 THE COURT: No problem.

21 BY MS. MANDEL:

22 **Q.** In your experience with PPD, did HR typically partner
23 with the business on things like staffing?

24 **A.** Yeah, they partnered on the business related to
25 everything. So they were involved in all the senior

1 leadership team meetings.

2 **Q.** And so --

3 THE JUROR: Hold on. That's not the e-mail.

4 THE COURT: That's not the e-mail. Which e-mail is
5 the one you --

6 THE JUROR: The prior document.

7 MS. MANDEL: We'll look at that one, too.

8 THE COURT: Fine. Go ahead.

9 BY MS. MANDEL:

10 **Q.** And is it your understanding, Chris, that that's why Chad
11 would have been copied on an e-mail like this?

12 **A.** Correct.

13 **Q.** Okay. And we'll bring up the other e-mail that we looked
14 at, as well. And this is -- sorry, I'll bring this up so you
15 can actually see it better.

16 This is the e-mail that we looked at from May of
17 2018. Do you recall that, Chris?

18 **A.** Correct. Yes.

19 **Q.** And if you look down at the e-mail from May -- May 14th,
20 it starts kind of halfway down the page. This is from Mr.
21 Mekerri and this went to you and Els Pluymers and to
22 Dr. Menninger. Do you see that?

23 **A.** Yes.

24 **Q.** And it copied a number of people, Brent McKinnon, who
25 worked in quality; is that right?

1 **A.** Yes.

2 **Q.** And Kathy Dick also worked in quality?

3 **A.** Yes.

4 **Q.** And it copied Mr. St. John in HR. Do you see that?

5 **A.** Yes.

6 **Q.** What is your understanding, having received this e-mail
7 in May of 2018, as to why Mr. Mekerri would have included
8 Chad St. John from HR in this type of communication?

9 **A.** In general, you know, I think that HR is copied because
10 they're involved in all of the aspects of business, and if
11 there's any accountability issues, then they're copied in on
12 it. Or if there's announcements for large announcements that
13 are going out regarding staffing changes, or those types of
14 things, they were frequently copied on e-mails.

15 **Q.** And you testified that you now hold the role that is, you
16 know, roughly equivalent to the one that Mr. Mekerri held?

17 **A.** Correct.

18 **Q.** And in your role, do you send out e-mails to your staff
19 about being accountable for issues that come up?

20 **A.** Yes.

21 **Q.** And when you send out those e-mails, do you at times
22 include HR, as well?

23 **A.** Yes.

24 **Q.** And is that for the reasons that you've just described
25 around accountability?

1 **A.** Yeah, for accountability, and for, you know, just general
2 awareness.

3 **Q.** Before we took a break, you were talking about what the
4 ED of labs, executive director of labs does.

5 Do you recall that?

6 **A.** Yes.

7 **Q.** And earlier this morning, you also testified about the
8 executive director of labs having an increased role with
9 regard to business development.

10 Do you recall that?

11 **A.** Yes.

12 **Q.** Is that still something today that you expect of the
13 executive director of labs?

14 **A.** Yes.

15 **Q.** And why is that?

16 **A.** Well, it's really because there's an expectation from our
17 clients, right, that they have that interaction with our
18 executive director of the labs, and the people that hold
19 those scientific certificates. So those interactions can be
20 of a couple of levels. One, is there a scientific aspect
21 that we need to discuss and what that looks like, or are
22 there particular tests that we want you to bring up or
23 particular platforms. Without giving any details, there's a
24 recent example where I've just added two new platforms to the
25 testing that we're doing, that were both client requests that

1 Dr. Kashlan brought to me and said, hey, talking to this
2 client, they want us to do this, thought it warrants this
3 much work. Are you willing to purchase the equipment? Sure.
4 So you know, those are the types of things where he's -- he's
5 doing that unilaterally, right? A lot of times having those
6 conversations, or in the context of some of these larger
7 meetings with bid defenses or capabilities meetings, and then
8 he's bringing that back to me and saying this is what I think
9 we need to do, and by the way, here's what diseases that
10 we're seeing are kind of hot, so this is where we need to --
11 what space we need to play in.

12 **Q.** And you just mentioned the bid defenses, the client
13 meetings around bid defenses; is that right?

14 **A.** Uh-huh.

15 **Q.** And is that something that Dr. Kashlan is involved in?

16 **A.** Yes.

17 **Q.** And why is that specifically still important to the
18 business now?

19 **A.** Because he has to assess that from a scientific level,
20 and the testing from a clinical pathology, right? So if
21 you're looking at we oftentimes, when we're going into these
22 bid defenses or operational meetings that we're kind of
23 giving, you know, our spiel, as it were, he kind of knows --
24 he's done the research on what the clients, what space that
25 they're working in. And so he brings that to the

1 conversation and says, well, what about this platform? Or
2 they may have questions, if it's in an actual bid defense
3 where they're saying, well, we typically want to run it on
4 this platform, so you know, without getting into the minutia,
5 right? There could be two or three different platforms that
6 you would run cholesterol on. Well, which one is best,
7 right, or which one is germane to your study. Which one --
8 so you know, there's all those types of those conversations.
9 They may say, well, we typically run it on this platform, how
10 does that correlate with your platform. And so he adds those
11 types of pieces of information to this discussion.

12 **Q.** And understanding that there's been a global pandemic in
13 the interim, has that been something that Dr. Kashlan has
14 done pretty consistently since he started in 2019?

15 **A.** Yeah, for all -- well, through 2019, prior to the
16 pandemic, he was definitely, you know, having those
17 conversations with clients. And then certainly during the
18 pandemic, it was a mad scramble, right, to say, well, what
19 platforms are we using? We were talking to platform
20 manufacturers. We were talking to -- there were many levels
21 of discussions that were happening there to talk to the
22 clients. Well, which one is the gold standard for the
23 testing. And so all of that around COVID was, you know,
24 really conversations that he was having with the clients.

25 **Q.** And during that same time period, has Dr. Kashlan

1 continued to give presentations within the company, as well?

2 **A.** Yeah. So we have -- so there -- everybody has to come to
3 the senior leadership team meetings. We have folks that are,
4 you know -- that are part of those discussions. A lot of the
5 stuff now is around financial -- you know, looking at the
6 financials of each department. And so as you're -- he's
7 participating in all of those. And of course, he's hosting
8 CAP inspections, those types of things, you know, both here
9 and abroad.

10 **Q.** And all of those types of presentations that you've just
11 described, do you view those as critical parts of
12 Dr. Kashlan's job?

13 **A.** Yeah.

14 **Q.** And why is that?

15 **A.** Well, it's important for the business, right? So not
16 only is he fulfilling the medical licensure piece of it, but
17 he's contributing to the growth of the business, which is
18 kind of all what we're accountable for, right? You all have
19 to be accountable for having those interactions, making those
20 connections with clients, figuring out where do we need to be
21 next, and driving the business forward.

22 **Q.** I believe you testified earlier that Dr. Kashlan
23 relocated from California when he came to PPD?

24 **A.** He did.

25 **Q.** And that was in 2019 you said?

1 **A.** I believe so. Yeah, 2019.

2 **Q.** Since Dr. Kashlan began working at PPD in 2019, has he
3 ever worked from a different location?

4 **A.** No, he's always worked out of that office. Other than,
5 and I'll clarify, during COVID there was some restrictions
6 that we put in place in the lab for infection control, and so
7 we had people on and off site.

8 **Q.** And even during that time period, was Dr. Kashlan on site
9 with some regularity?

10 **A.** Yes.

11 **Q.** And why was that?

12 **A.** A couple reasons. Number one, I think that it was
13 important -- so just from a general management standpoint,
14 it's really important that the people, and especially during
15 COVID, we were asking the boots-on-the-ground people, so that
16 would be your med techs, your lab people, sample management,
17 those folks, again, there's no second chances, COVID or no
18 COVID.

19 You had patient samples coming in that had to be
20 tested. These people were relying on us to provide them with
21 test results for their care and their management of that
22 care. So when you're asking all of your people to come in
23 every day, all day, and be there, it's important for them to
24 see leadership there, as well. Right? They need to know
25 that the kind of the head of the whole thing is leading them

1 through this.

2 So otherwise, you end up with a situation where,
3 you know, you're going to end up with a lot of turn over,
4 because people don't see that leadership is behind it.
5 There's no presence there. So that -- that is a primary
6 focus. And then, of course, all of the COVID discussions
7 that we were having with clients, right, and having, you
8 know, those interactions, as well.

9 **Q.** And you said COVID discussions with clients. What did
10 that entail?

11 **A.** So, again, those were happening during the height of
12 COVID, it seemed like every day. Maybe it was a little less
13 than that, but on a really constant basis, a couple times a
14 week, at least, you were having conversations about what
15 platforms, what test, what test was giving you the best
16 result, which one had the best sensitivity. So all of these
17 tests and these, you know, vaccine programs that were gearing
18 up, you had to provide testing for those. And so there was a
19 lot of discussions with clients about, well, what does that
20 look like? And so there's also the piece where he would be
21 having those conversation not only with the client about how
22 does this work, but he would also have to talk to the lab
23 staff and go, okay, well, if we brought in this --

24 And we brought in probably four or five different
25 pieces of equipment during COVID, where are we going to put

1 it, how is that going to impact workflow? How do you guys
2 feel about this? So he's having those types of discussions
3 with the staff training around the instrumentation. Most of
4 that was happening in molecular, which is high complexity
5 testing. It's not as simple as throwing it on a machine and
6 you get your glucose and your liver and cholesterol results.
7 It's a lot more complex. So there was a lot of that type of
8 stuff that was going on and it means having meetings
9 internally with folks on the lab staff.

10 **Q.** In light of what you've just described, in your current
11 role, would you be open to the idea of a medical director not
12 working on site on a daily basis in Highland Heights?

13 **A.** I wouldn't.

14 **Q.** And at any point from when you took over that role in
15 2019 to now, has there been a situation where you haven't had
16 a medical director on site with some regularity?

17 **A.** No.

18 **Q.** Thinking back to 2018 and your role being a little bit
19 different at that time, do you recall how the lab's
20 accreditation -- I know you've mentioned CAP, and ISO, and
21 New York State. Do you recall how the lab's accreditation
22 was handled from the time that Dr. Menninger began medical
23 leave in 2018 and the time that Dr. Kashlan came on board in
24 2019?

25 **A.** Yeah, so Dr. Reddy, Paul Reddy was kind of posted up for

1 those positions. So he was credentialed enough to hold CAP
2 and get a spy on the CLIA stuff. He was not credentialed
3 enough to do the New York State. So in those scenarios, I
4 think a lot of those organizations are -- I won't say
5 forgiving, but they give you a bit of a grace period, right?
6 They know sometimes these types of things happen. And so
7 they -- they will give you a period to say, okay, we
8 understand. You had somebody leave. We do expect you to get
9 this up to snuff, you know, over the next six months, or
10 whatever that is, and then they'll allow that.

11 So he was enough for the interim piece of that, but
12 we were still on the hunt for making sure that we would have
13 everybody that would cover all of those bases.

14 **Q.** And I know you talked about that sort of grace period.
15 If an accrediting organization, whether it's New York State
16 or ISO, CAP, any of those, determined that Central Lab was
17 not in compliance with its requirements around having a lab
18 director, could that result in the loss of accreditation?

19 **A.** It could, yes.

20 **Q.** What would that mean for the business?

21 **A.** It would shut it down. Just based on the one CLIA, so
22 CLIA is governed by the CDC, and it's mostly a US
23 organization. Having that accreditation and licensure allows
24 you as a lab to report out diagnostic samples, right? So
25 you're doing those samples, you're reporting out those tests

1 for clinicians or the doctors to make assessments about their
2 patient. If you don't have that, it all goes full stop,
3 right?

4 So luckily, they have a lot of conversation with
5 you, and they want to know how you're going to manage that
6 and get through it. But if they -- push came to shove and
7 they wanted to say, "That's it," it would be full stop.

8 **Q.** "Full stop" meaning shut down Central Labs' business?

9 **A.** Correct.

10 **Q.** Have you spoken with Dr. Kashlan about hiring someone
11 else to work in lab leadership who can also carry that
12 licensure?

13 **A.** Yeah. So one of the things that we consistently do in
14 the organization is we have the conversation about succession
15 planning. So there's often a yearly conversation about, hey,
16 if you were to win -- I think usually the way that HR puts it
17 to me is, if you were to win the lottery tomorrow, who would
18 we put in your place? And so we do that across the
19 organization.

20 So I've had that conversation with Dr. Kashlan, and
21 we are looking for somebody to bring in and have as a
22 secondary level to him.

23 **Q.** Does that mean you're looking to remove Dr. Kashlan from
24 his role?

25 **A.** No.

1 **Q.** Why would you having that conversation if you're not
2 planning to remove him from the role?

3 **A.** Because anything can happen. You have to be prepared
4 for -- you have to have contingency plans, whether it's my
5 role, any one of the other leaders' roles that we saw. You
6 have to have contingency.

7 Specifically you have to have a contingency around
8 that one. Because that -- so could I be replaced? Yes.
9 Could a lot of the other folks be replaced in those roles?
10 Yes. But that role is absolutely critical, because it's the
11 core of your business. You can't report results, you can't
12 run the tests and get those out without having that role
13 covered.

14 **Q.** So would this be like if my firm tries to find a backup
15 for me, since I'm a Massachusetts licensed attorney, they
16 want to be prepared?

17 **A.** Yeah. Only on steroids. Right? Because, again, my role
18 or somebody else's role is less -- if I'm being honest, is
19 less important than that medical director role. That is the
20 key to how we run the entire operation is having that
21 licensure.

22 MS. MANDEL: Thank you. I have no further
23 questions at this time.

24 THE COURT: All right. Any redirect?

25 MR. HANNON: Yes, Your Honor.

REDIRECT EXAMINATION BY COUNSEL FOR PLAINTIFF

BY MR. HANNON:

Q. Mr. Clendening, let's start in February of 2018. It was in February of 2018 that you received that e-mail from Mr. St. John that contained Dr. Menninger's request for accommodation, right?

A. Yeah. I don't recall receiving it, but, yes, that was the date on the document.

Q. Well, let me show it to you, just so we're all on the same page here?

MS. MANDEL: Objection. Scope.

MR. HANNON: She covered this.

THE COURT: Overruled.

BY MR. HANNON:

Q. All right. So we see here an e-mail from Mr. St. John to you, yes?

A. Correct.

Q. That's your e-mail address?

A. Yes.

Q. Didn't make any mistakes in spelling it out?

A. No.

Q. You see there, this was sent just a few hours after Mr. St. John had received it, right?

A. Yes.

Q. Okay. And looking at the attachment, do you see here

1 it's something from a Dr. Marianna Kessimian. Do you see
2 that?

3 **A.** I do.

4 **Q.** Yes?

5 MS. MANDEL: Objection to scope. This is beyond
6 anything --

7 THE COURT: I don't think it was. I think that you
8 didn't examine him about this specific e-mail, but I think
9 the topic came up. So overruled.

10 BY MR. HANNON:

11 **Q.** Was it part of your ordinary day --

12 THE COURT: Just so you know, ladies and gentlemen,
13 so scope is, on redirect, Mr. Hannon -- the general rule is
14 Mr. Hannon is not allowed to go into topics that weren't gone
15 into by Ms. Mandel. So that's why the objection -- and in
16 fact, as I'll tell you at the end, lawyers have a duty to
17 object. They're supposed to object. And the fact that they
18 object, you shouldn't infer anything from them. And you
19 shouldn't -- other than the resolution of how I resolve it,
20 so either it's allowed or it's not allowed, but what it
21 means, it doesn't mean anything about either side, and you
22 don't infer anything about that.

23 So go ahead.

24 BY MR. HANNON:

25 **Q.** Sir, in February of 2018, was it normal for you to

1 receive documents like this in your e-mail?

2 **A.** No.

3 **Q.** Fair to say that if you had read this in February of
4 2018, this was something that would have stuck out in your
5 memory?

6 **A.** Yeah.

7 **Q.** Okay. And subsequent to receiving this document from
8 Mr. St. John, you were aware that there were efforts to try
9 to find people to replace Dr. Menninger, isn't that right?

10 **A.** I don't know that it was to replace, but I know that it
11 was at least to have additional people.

12 **Q.** And not just to have additional people, but to have
13 additional people who could fill her spot if she left,
14 correct?

15 **A.** Correct.

16 **Q.** Okay. And you were involved in those discussions,
17 weren't you?

18 **A.** In general, yeah.

19 **Q.** Okay. And when you were involved in those discussions,
20 you knew why they were happening, right?

21 **A.** My understanding at the time as to why they were
22 happening is because of her not being on site.

23 **Q.** Okay.

24 **A.** Not with regard to this.

25 **Q.** Well, sir, she stopped being on site in June of 2017,

1 right?

2 **A.** I don't know when she -- well, whenever that -- I
3 actually don't recall what the exact date was.

4 **Q.** It was months before you got that e-mail from Mr. St.
5 John in February, wasn't it?

6 **A.** I don't recall that.

7 **Q.** And then, sir, you learned that at some point
8 Dr. Menninger, she caught wind of the fact that PPD was
9 looking for people to potentially fill her spot. Isn't that
10 right?

11 **A.** I never had that discussion with her.

12 **Q.** You didn't learn that she complained about that?

13 **A.** I did not.

14 **Q.** And then in May of 2018, Dr. Menninger, she sent out an
15 e-mail noting some specific areas where she thought PPD
16 should try to fill the gaps. Isn't that right?

17 **A.** I don't recall. If you have a copy of that e-mail, I'm
18 happy to take a look at it, but I don't recall.

19 **Q.** Sure thing. I'm going to show you Joint Exhibit 106.

20 So this is an e-mail on June 1, 2018, from Chad St.
21 John, do you see that?

22 **A.** Yes.

23 **Q.** And that's to Jerry Williams. Do you know who he is?

24 **A.** Yes.

25 **Q.** He was the head of HR back then, right?

1 **A.** Correct.

2 **Q.** Okay. And if you look there in the subject, I'm sorry,
3 in the attachment line, you'll see a familiar name.

4 **A.** Yes.

5 **Q.** That's the resume of Basel Kashlan, right?

6 **A.** Correct.

7 **Q.** He was the gentleman who was eventually hired to replace
8 Dr. Menninger, correct?

9 **A.** Correct.

10 **Q.** Okay. Let's take a look at how this e-mail chain began.
11 I'm sorry. I went too fast.

12 So I'm showing you now the 12th page of the
13 exhibit, which has the stamp 809 in the bottom right-hand
14 corner.

15 Do you see that, Dr. Menninger, she had sent an
16 e-mail out on May 16, 2018. Do you see that?

17 **A.** Yes.

18 **Q.** Okay. And this was an e-mail that she sent to Mr. St.
19 John, copying you and Mr. Mekerri, right?

20 **A.** Yes.

21 **Q.** Okay. And she identified some specific areas where she
22 thought there were compliance gaps; isn't that right?

23 **A.** I don't know that these are compliance gaps, but whether
24 or not that was the intent, it appears to me she was making
25 recommendations on who we would need to cover some of these

1 areas.

2 **Q.** And she's making specific reference to flow cytometry and
3 microbiology. Do you see that?

4 **A.** Yes.

5 **Q.** Okay. And when you got this e-mail, you saw an
6 opportunity, didn't you?

7 **A.** An opportunity for what?

8 **Q.** An opportunity for PPD to move forward with hiring an
9 individual to replace Dr. Menninger?

10 **A.** I would read that as hey, this is where we have gaps, and
11 we would need to fill those.

12 **Q.** So this e-mail is May 16, 2018. Do you see that?

13 **A.** Yes.

14 **Q.** Okay. I'm now going to show you an e-mail from the
15 following day, Joint Exhibit 290. And it's the bottom of the
16 page here, so you see an e-mail there from you?

17 **A.** Yes.

18 **Q.** On May 16th. Do you see that?

19 **A.** Yeah, I don't see the bottom page.

20 **Q.** Go to the next page here. We'll look at the message.
21 And the subject is "AP and flow." Do you see that?

22 **A.** Yes.

23 **Q.** And this is an e-mail to Mr. Mekerri and Mr. St. John; is
24 that right?

25 **A.** Correct.

1 Q. You didn't include Dr. Menninger in this e-mail, did you?

2 A. No.

3 Q. Why not?

4 A. I don't recall.

5 Q. Let's look at what you wrote.

6 A. "Neo would have both. We could potentially bake that
7 into our agreement to serve as our licensure that we can."

8 So --

9 Q. Let me ask you a question, if we may. Can you tell us
10 what that reference, "our agreement to serve as licensure"
11 refers to?

12 A. So for -- during this period of time, AP and flow, so AP
13 is anatomical pathology, right? That's oncology types of
14 studies. And if I remember correctly, and I'd have to look
15 for these dates, but there -- we had another person that was
16 on board, Patrick Mann, that was helping on the AP side of
17 things. He also subsequently left, and so we had a gap
18 across the board for anatomical pathology and flow cytometry.
19 NEO is a reference to Neo Genomics, which is a third party
20 lab that we could use, right, to do those types of services.

21 Q. And your reference at the end of "then we can --"

22 Can you finish that sentence for us?

23 A. I can't.

24 Q. Looking back at the next page and the reference
25 is, "Looping in Lisa;" is that right?

1 **A.** That's correct.

2 **Q.** Okay. And he notes that cost is the question, right?

3 **A.** Yeah. It's always a question.

4 **Q.** And, in fact, looking back at the e-mail from a moment
5 ago that attached Mr. Kashlan's -- I'll show you Joint
6 Exhibit 106 again. So this was the e-mail from a moment ago
7 that attaches Mr. Kashlan's resume; is that right?

8 **A.** Yes.

9 **Q.** Okay. And Mr. Kashlan, as of this time, his most recent
10 experience, am I right, he had recently served as a medical
11 director?

12 **A.** Yeah, I believe that's correct.

13 **Q.** That was his background?

14 **A.** Yes.

15 **Q.** And as of this date, as of June 1, 2018, you'll see that
16 Mr. St. John reports that Mr. Mekerri had sent an e-mail
17 authorizing the funds to proceed; is that right?

18 **A.** Yeah. I'm assuming to recruit him.

19 **Q.** Okay. And you've testified today that Mr. Kashlan did
20 not start until 2019; is that right?

21 **A.** Correct.

22 **Q.** Okay. I'd like to show you something here and see if it
23 refreshes your recollection as to that.

24 MR. HANNON: Ms. Belmont, this is not in evidence.

25 And I'm just going to scroll down here, sir.

1 THE COURT: Just read it to yourself.

2 BY MR. HANNON:

3 Q. Have you reviewed the document, sir?

4 A. Yes.

5 Q. Okay. Does that refresh your recollection as to when
6 Mr. Kashlan started?

7 A. No. It's a LinkedIn profile.

8 Q. It doesn't refresh your recollection that he started in
9 2018?

10 A. No, it's a LinkedIn profile. I don't -- I mean, my -- my
11 linked in profile dates are probably subject -- I don't --
12 that's not controlled by the organization.

13 Q. You mentioned earlier that you had concerns about
14 Dr. Menninger working remotely. Did I hear that correctly?

15 A. Yes.

16 Q. I'm going to show you Joint Exhibit 392. And I
17 appreciate you're not on this document here, but I just
18 wanted to show you something and see if you agree with it.

19 I highlighted the wrong part. I'm sorry.

20 Mr. St. John wrote, "Lisa has also shared with all
21 CL key stakeholders that she will be moving to the Providence
22 area/New England region for compelling personal reasons the
23 weekend of the June 24th. No concerns regarding her physical
24 move have been expressed or detected at this time."

25 Do you see that?

1 **A.** Yes, I see that.

2 **Q.** Okay. And you see Mr. Mekerri is included on this
3 e-mail; is that right?

4 **A.** That's correct.

5 **Q.** And is it your testimony today that this e-mail is not
6 accurate?

7 **A.** I expressed my concerns directly to Mr. Mekerri. So what
8 Chad knew at that time, I don't know.

9 **Q.** Okay. But your testimony is that Mr. Mekerri knew of
10 your concerns at this time; is that right?

11 **A.** Sure.

12 **Q.** Okay. Do you have any reason to suspect that Mr. Mekerri
13 would have kept that from Mr. St. John?

14 **A.** I don't know that he would keep it from him, but I don't
15 know that he would communicate it, either.

16 **Q.** Well, you told us earlier in looking at one of the later
17 e-mails about how it was routine for Mr. Mekerri to share
18 information with Mr. St. John, right?

19 **A.** Yeah.

20 **Q.** If a problem arose in the lab, I think your testimony was
21 that he would keep Mr. St. John in the loop, right?

22 **A.** Correct.

23 **Q.** If one of Mr. Mekerri's senior leaders had serious
24 concerns about Dr. Menninger working remotely, do you think
25 that's something he would have shared with Mr. St. John, as

1 well?

2 **A.** I can't speak to that.

3 **Q.** With respect to the importance of being on site in
4 Highland Heights, there was some staff changes being made in
5 connection with Dr. Menninger's departure, right?

6 **A.** Excuse me. Repeat it?

7 **Q.** I shouldn't have said "departure." There were some staff
8 changes being made in connection with Dr. Menninger taking on
9 remote status, right?

10 **A.** Staff changes?

11 **Q.** Yes. Dr. Reddy, he took on the role of the -- of the
12 official CAP supervisor on site, right?

13 **A.** Paul Reddy?

14 **Q.** I'm sorry, Mr. Reddy, yes.

15 **A.** Yes.

16 **Q.** Okay. And there was also an open supervisor that was
17 being recruited for, right?

18 **A.** I don't recall if there was or not at that time.

19 **Q.** You mentioned earlier someone by the name of Narine?

20 **A.** Narine.

21 **Q.** Can you pronounce her last name for us?

22 **A.** Khachatryan.

23 **Q.** Okay. And Ms. Kachatryan?

24 **A.** Yeah.

25 **Q.** She was hired into that supervisor role, right?

1 **A.** Correct.

2 **Q.** Okay. And that was early 2018.

3 **A.** I don't recall the exact date.

4 **Q.** Does that sound about right, early 2018?

5 **A.** Roughly, yeah.

6 **Q.** Okay. And I think one of the things that you mentioned
7 in terms of your concerns about having Dr. Menninger not on
8 sight was the inability to brainstorm. Did I hear that
9 right?

10 **A.** Yeah.

11 **Q.** Okay. Did you and Dr. Menninger do lots of
12 brainstorming?

13 **A.** I would stop in her office from time to time, yeah, and
14 discuss.

15 **Q.** How frequently?

16 **A.** I would say I was probably there once a week.

17 **Q.** And were you able to pick up the phone and call her when
18 she wasn't on site?

19 **A.** Typically, it's really hard when you're trying to -- you
20 know, a lot of these pop-ins, you're literally popping in.
21 So everybody's booked back to back most days. So a lot of
22 times you were finding 15 minutes, 20 minutes here or there
23 to have discussions.

24 **Q.** So you found it hard to pick up the phone then to walk
25 into her office?

1 **A.** No, I have no problem picking up the phone. It's just
2 harder to communicate and have those discussions.

3 **Q.** It was harder to have the communications over the phone?

4 **A.** Yeah.

5 **Q.** Okay.

6 **A.** For me, personally. Yeah.

7 **Q.** Okay. Is that a common problem for you?

8 **A.** No. I mean, I -- usually, when you're doing a
9 brainstorming type of session, you would like to have
10 everybody kind of in the same room, right?

11 **Q.** Well, you were running a Global Lab, right, sir?

12 **A.** Correct.

13 **Q.** You never had everybody in the same room?

14 **A.** That's correct.

15 **Q.** In fact, you had responsibilities for labs all over the
16 world, right?

17 **A.** Correct.

18 **Q.** And sometimes you had to brainstorm with your direct
19 reports?

20 **A.** Yes.

21 **Q.** And sometimes you did it over the phone?

22 **A.** Correct.

23 **Q.** You talked a bit about business development. In 2018,
24 you weren't in charge of business development, were you?

25 **A.** No.

1 **Q.** That was ran by Andy Supp; is that correct?

2 **A.** In 2018? Yes, I think that's correct.

3 **Q.** Okay. And one of the things you talked about Mr. Kashlan
4 doing now is he gets involved in bid defenses; is that right?

5 **A.** Yes.

6 **Q.** How often does he do those?

7 **A.** Probably weekly.

8 **Q.** Okay. And you know that for sure, he does them weekly?

9 **A.** Yeah, I think there's at least one a week, on either some
10 sort of capabilities or client facing meeting.

11 **Q.** Are you involved in those?

12 **A.** Some I am and some I'm not.

13 **Q.** Okay. How do you decide which ones you're involved in
14 versus which ones you're not?

15 **A.** Typically it's whether or not, you know, they require me
16 to speak to any of the pieces -- so a lot of times they're
17 going to pull me in. If I need to make a larger commitment.
18 Right? So if we're going to commit to doing something that's
19 going to have some sort of financial impact or the way that
20 we typically do things, then they would call me in so that I
21 can relay that commitment to the client.

22 **Q.** Okay. So if they're in a client bid defense and they
23 need someone who's not in the room, they can pull them in?

24 **A.** Oh, that rarely happens. I mean, usually the people are
25 set up in advance. It's not a hey, call -- phone a friend

1 type of scenario. You usually -- you have a cast of
2 characters, everyone that's going in there. You know roughly
3 what's going to be discussed. So typically they'll send you
4 an agenda that right, that says these are the things that
5 we're going to want to talk about. And so then each kind of
6 person is lined up to speak to those.

7 **Q.** So there's time to prepare, right?

8 **A.** Yeah.

9 **Q.** There's time to plan, right?

10 **A.** Uh-huh.

11 **Q.** Yes?

12 **A.** Yes.

13 **Q.** You can know in advance when these meetings are going to
14 take place?

15 **A.** Yeah, usually you get about a one-, two-week period.

16 **Q.** And you know what topics are going to be discussed?

17 **A.** Yeah, typically slides aren't finalized until last
18 minute. Usually you're seeing those the day of, or the day
19 before.

20 **Q.** Well, that depends upon your work flow and how quick you
21 get the work done, right?

22 **A.** Yeah, but I'm just telling you what it typically is.
23 That's how it usually pans out, that people are getting them
24 the day before.

25 **Q.** Sure, I didn't ask that question, but that's fine.

1 You can find out who's going to be there, right?

2 **A.** Yes.

3 **Q.** You know what time of day it's going to happen?

4 **A.** Yes.

5 **Q.** Okay. And those are -- that's -- that's all information
6 that you're able to communicate to Dr. Kashlan, right?

7 **A.** He's involved in all the prep meetings. So there's
8 multiple -- so nobody goes into these just cold, right?
9 There's prep meetings that happen. There will probably be
10 three, four, five prep meetings before the actual event.

11 **Q.** And all of that is more time to plan, right?

12 **A.** It's more time to discuss. You're having discussions
13 with the whole group. So the whole cast of players is there
14 to talk about how should we present this, what the flow
15 should be like, what is your section, what kind of
16 information do we need from you, right? All of that is
17 happening.

18 **Q.** Sure. And might there be opportunities -- well,
19 actually, strike that.

20 The nature of these bid defense meetings, these
21 didn't suddenly change in 2018, did they?

22 **A.** The nature of them?

23 **Q.** Yes.

24 **A.** Well, I think we went from -- we had more -- we brought
25 more people in from the business, rather than just a few key

1 players, right?

2 **Q.** Okay. But in terms of the type of subject matter that
3 was being covered in client bid defense, that stayed the
4 same?

5 **A.** No, I don't think that is the case. Because you would be
6 talking about, again, during that period, you're talking
7 about what new assays, what new functionality. So it's not
8 just the lab, right? There was a ton of new functionality
9 that you would have. So you had to bring in those folks to
10 have those discussions, as opposed to this is kind of the way
11 that we always do it. So prior to that, you know, it was a
12 more high touch, more integrated model.

13 **Q.** Well, that depends upon the specific client bid defense,
14 right?

15 **A.** No, that was our general structure.

16 **Q.** Well, you're defending bids for different types of
17 projects, right?

18 **A.** Correct.

19 **Q.** So some of them would have different specializations?

20 **A.** Yeah, but you covered every group. So you didn't -- you
21 covered the Central Lab and every piece within the Central
22 Lab, not just one. So there was never a time where you would
23 go in and say this is our project management, our project
24 design, our sample management and data management, without
25 including lab and all the other pieces. So everybody was

1 included.

2 **Q.** Sure. There was never a time that you would not do that,
3 right?

4 **A.** Right. I mean -- because it's under the entire Central
5 Lab umbrella.

6 **Q.** Sure. And who is actually responsible for planning these
7 client bid defense meetings?

8 **A.** A lot of times it falls on the business development
9 person.

10 **Q.** So it would be Andy Supp, right?

11 **A.** Well, or one of the folks underneath Andy. Because
12 they're all -- they're regional, right? So they're going to
13 have a different region. Somebody on the East Coast, that
14 person is going to be dealing with the East Coast. You might
15 have one in Europe that's dealing with the ones in Europe.

16 **Q.** Sure. So if Andy Supp or his team thought that they
17 needed Dr. Menninger for a client bid defense, they would be
18 the ones reaching out to her, right?

19 **A.** Yeah.

20 **Q.** Okay. To your knowledge, did they ever do that prior to
21 her taking medical leave from PPD?

22 **A.** I would assume so. I don't have direct knowledge at that
23 period of time of who they reached out to and who they
24 didn't. But, again, everybody was -- everybody was getting
25 on these calls at that time.

1 **Q.** You talked about an e-mail here, Joint Exhibit 291, which
2 is -- I'm going to show it to you.

3 So this is the e-mail that you looked at in
4 questioning for Ms. Mandel. And we noted earlier that HR was
5 on Mr. Mekerri's e-mail on May 14, 2018. Do you see that?

6 **A.** Yup.

7 **Q.** Okay. This type of e-mail chain, it wasn't common for
8 Mr. Mekerri to include Mr. St. John on these e-mail chains,
9 was it?

10 **A.** Yeah, it was common to include Mr. St. John. He was part
11 of the senior leadership team.

12 **Q.** Okay. So if the jury is to look at other e-mails,
13 concerning other client issues throughout 2018, your
14 expectation is Mr. St. John is going to be on those, too?

15 **A.** He may include him, he may not. You know, depending on
16 what type of, whether it was minor, major, critical, what
17 Mr. Mekerri, as far as how he included people on that, I
18 mean, I -- I can't speculate on that.

19 **Q.** I'm not asking you to speculate. I'm trying to clarify
20 your testimony. Is your testimony that it was common for
21 Mr. Mekerri to include Mr. St. John on e-mail correspondence
22 concerning the investigation of lab issues?

23 **A.** Yeah. Or other issues.

24 **Q.** Okay.

25 **A.** I don't know that it's specific to lab issues. It would

1 be across the board. So it could be in project management.
2 It could in data management. Hacene was well-versed in data
3 management, so those would commonly come out. So, yeah.

4 **Q.** And it was typical for him to include Mr. St. John on
5 those?

6 **A.** Depending on the gravity of the situation.

7 **Q.** Okay. You see here Dr. Menninger's response.

8 **A.** Yes.

9 **Q.** She writes, "Yes, I've been involved and was
10 corresponding with Jay about this issue last week. We are
11 meeting daily while the root cause for the latest issue
12 involving improper sample storage temperature is under
13 investigation."

14 Do you see that?

15 **A.** I do.

16 **Q.** Was that accurate?

17 **A.** I couldn't say whether she was meeting daily or not.

18 **Q.** You don't have any insight into that?

19 **A.** No.

20 **Q.** Okay. And she notes, "with respect to the meeting daily
21 while the root cause for the latest issue."

22 Do you see that?

23 **A.** Yeah.

24 **Q.** As of this point in time, am I right, that no root cause
25 had been identified yet?

1 **A.** For this particular issue in 2018?

2 **Q.** Yes.

3 **A.** I would have to look at the log and the event to see if
4 it was resolved.

5 **Q.** Okay. This particular storage sample issue, do you
6 recall what the root cause of that was?

7 **A.** I do not.

8 **Q.** Okay. Do you recall if it had something to do with the
9 design of the study?

10 **A.** It could have. There's multiple ways that this could
11 be -- that this could go, from a root cause standpoint.

12 **Q.** Sir, was it your group that was involved in the design
13 study?

14 **A.** My group would have been involved in designing studies.

15 **Q.** Okay. And your group would have been responsible for the
16 design study, right?

17 **A.** Correct.

18 **Q.** Okay. So this could have been an error in your group?

19 **A.** Could have been.

20 **Q.** And this customer here, GSK, at some point in time, the
21 project manager on this study was replaced; is that right?

22 **A.** I don't recall.

23 **Q.** Were you the project manager for the GSK study?

24 **A.** No.

25 **Q.** Do you know who was?

1 **A.** I don't.

2 **Q.** Just one last bit here, sir. I'm going to show you a
3 document. And again, this is not a -- this is not an agreed
4 exhibit.

5 THE COURT: Not in evidence you mean?

6 MR. HANNON: So this is --

7 THE COURT: Mr. Hannon, not in evidence?

8 MR. HANNON: Correct. This is not in evidence as
9 of yet.

10 Let me get the letter here, just so we -- this is
11 AD.

12 Safe to show? Ms. Ballweg?

13 THE COURT: Yeah, you can show.

14 MR. HANNON: Okay. Great.

15 BY MR. HANNON:

16 **Q.** So Mr. Clendening, I see here -- I'm showing you a
17 document -- you see here this is dated November 9, 2018, yes?

18 **A.** Yes.

19 **Q.** Okay. And you see here, the document has a -- has a
20 verification by Deborah Ballweg. Do you see that?

21 **A.** Yes.

22 **Q.** Okay. You know who Ms. Ballweg is, right?

23 **A.** Yes.

24 **Q.** Okay. And you see here that her verification notes that
25 to the extent that she has personal knowledge of the facts

1 that she's affirming under the penalty of perjury, that the
2 facts are true and correct. Do you see that?

3 **A.** Yes.

4 **Q.** Okay. I want to direct your attention to one of the
5 facts stated here.

6 THE COURT: Just highlight what you want to ask
7 about.

8 MR. HANNON: I'm sorry, Your Honor?

9 THE COURT: Just highlight what you want to ask
10 about before you --

11 It goes on to the next page?

12 What's the question, without repeating what's in
13 the highlight?

14 MR. HANNON: Well, trying to establish if he
15 believes that's accurate or he disagrees with it.

16 THE COURT: Well, you can ask him just that.

17 MR. HANNON: Okay.

18 BY MR. HANNON:

19 **Q.** Sir, do you agree that as of November of 2019 -- I'm
20 sorry. As of November 9, 2018, that PPD had --

21 MS. MANDEL: Objection.

22 THE COURT: No, you can just ask him -- that's not
23 what I said. You can ask him whether he knows if that's
24 correct or not, that statement that you've highlighted for
25 him, without repeating the statement.

1 MR. HANNON: Okay.

2 THE COURT: You can read the statement. You know
3 what the statement is, but that document is not now in
4 evidence. And you haven't offered the document, so I don't
5 think it would be proper to read the document as part of your
6 question, and particularly after the questions you've already
7 asked. So I think you can just ask him what you want, what
8 your question purports to want to know is whether he agrees
9 that that's accurate or not.

10 So he's read it. You've seen what's highlighted?

11 THE WITNESS: It's hard to see because it's on two
12 separate pages.

13 THE COURT: So he'll show you the next page.

14 So you've seen what's on this page and he'll show
15 you the next page.

16 And then your question is, is that accurate, right?
17 If he knows.

18 MR. HANNON: Sure.

19 BY MR. HANNON:

20 Q. Is that accurate?

21 A. I don't recall if that's accurate. I've never seen this
22 document before so I don't know.

23 Q. Sure. But the fact that it's there, if that were true,
24 that was something that you would know, right?

25 A. Not necessarily.

1 MR. HANNON: Okay. Your Honor, I'd offer --

2 THE WITNESS: What's the date on this? November 9,
3 2018?

4 MR. HANNON: Yeah.

5 Your Honor, I offer this as an exhibit.

6 MS. MANDEL: We object, Your Honor.

7 THE COURT: There aren't any other questions to ask
8 the witness about it, right?

9 MR. HANNON: No.

10 THE COURT: All right. I'll reserve on that, so I
11 can hear you without wasting the jury's time.

12 Are you offering the document or just that one
13 sentence.

14 MR. HANNON: Just that portion will be fine. If
15 they want the whole document, we'll have the whole document,
16 but I just need that one --

17 THE COURT: Okay. We'll talk about that after.

18 Any other -- so you don't have any more question of
19 the witness?

20 MR. HANNON: I'm done.

21 THE COURT: Do you have questions?

22 MS. MANDEL: Just a couple.

23 THE COURT: Go ahead.

24 **RECROSS-EXAMINATION BY COUNSEL FOR DEFENDANT**

25 BY MS. MANDEL:

1 **Q.** Chris, in 2018, did you have any control over whether
2 Dr. Menninger remained employed?

3 **A.** No.

4 **Q.** In fact, at any point when you worked with Dr. Menninger,
5 did you have control over whether she remained employed?

6 **A.** No.

7 **Q.** In 2018, were you in charge of hiring a new medical
8 director for Central Labs?

9 **A.** No.

10 MS. MANDEL: No further questions, Your Honor.

11 THE COURT: All right. Thank you very much.

12 You're excused.

13 Am I right, so we have the two witnesses left?

14 MR. HANNON: (Nods head.)

15 THE COURT: And neither of them today.

16 So let me tell you where we are, ladies and
17 gentlemen, for the rest of the case. So Mr. Hannon, on
18 behalf of Dr. Menninger, has one more witness. That's your
19 damage expert, right?

20 MR. HANNON: Economic damage expert.

21 THE COURT: Economic damage expert, and that expert
22 is not available today. So that's why we're not hearing from
23 them. And after that, after he calls that witness, I expect
24 that that's the end of the presentation of his case. And
25 then the defendants have one more witness to call, and that

1 witness is their medical expert, right?

2 MS. MANDEL: Yes.

3 THE COURT: All right. And that witness also is
4 not available today. Both of them are available tomorrow.
5 So today, we're done early. So in terms of -- right. It's
6 like being let out of school early, right? So just to give
7 you the rest of the schedule.

8 So we're done today for the day. Tomorrow we will
9 start at 9 a.m. We'll have those two witnesses. We'll
10 certainly be done with them by 1 o'clock. That's my
11 expectation. It's possible we will go right up to 1 o'clock.
12 It's possible we'll finish a little bit early. Either way,
13 tomorrow will be just 9:00 to 1:00. Friday, you'll come in
14 and we'll have closing arguments, my instructions on the law
15 to you, and you will begin your deliberations, so you should
16 anticipate staying all day. So that's the schedule for the
17 rest of the case.

18 And just so you understand, part of the reason --
19 you might be thinking why don't we just go all day tomorrow,
20 Judge. And so the reason is this, my instructions to you on
21 the law, I share with them before I share them with you, so
22 they can comment and give me suggestions or objections or
23 corrections, or all sorts of back and forth interaction, and
24 so I can't really do until I've heard all the evidence. So
25 that happens, and we'll do that tomorrow after the evidence

1 is done. And then that's why the next day we'll have closing
2 arguments and charge. And it also gives the lawyers a chance
3 to prepare better after the evidence is done for their
4 closing arguments.

5 All right. Yes.

6 THE JUROR: How long do you expect closing
7 arguments to be?

8 THE COURT: I would think that the closing
9 arguments would be in the zone between 45 minutes for each of
10 them, give or take a little bit. And I would think that my
11 instructions on the law to you would be about 45 minutes or
12 so. So you could expect to get the case certainly before
13 lunch. All right. Okay.

14 All right. Don't discuss the case among
15 yourselves, don't discuss it with anyone else. Keep an open
16 mind. You haven't heard all the evidence or my instructions
17 on the law.

18 All rise for the jury and thank very much for your
19 attention.

20 And no independent research.

21 (The jury exits the courtroom.)

22 THE COURT: Okay. So your argument is it's a
23 statement of a party opponent on a relevant matter as to when
24 they hired. It's relevant to some of your theories, right?

25 MR. HANNON: Correct.

1 THE COURT: Why wouldn't it be admissible?

2 MS. MANDEL: Well, just the timing itself I think
3 has the potential to be quite confusing to the jury. But as
4 we --

5 THE COURT: Full timing of when it's offered?

6 MS. MANDEL: Well, actually, the timing of the
7 document itself. We heard today and saw today that this
8 document was dated November of 2018. So, in fact, it was
9 before -- we've had testimony about Dr. Menninger's medical
10 leave actually ending in February of 2019, a permanent hire
11 being made after that time. So this -- this was a document
12 that was created and signed by Ms. Ballweg sort of in the
13 midst of that. And so statements made about the hiring of
14 the interim medical director or a replacement for
15 Dr. Menninger are sort of at a time that is prior to other
16 evidence that we've heard. The document itself, and, you
17 know, there is case law to this effect, but the document
18 itself has created this position statement at the MCAD, which
19 is a different administrative process with different
20 standards, prior to the commencement of this litigation. And
21 so statements that were made by PPD, signed by Ms. Ballweg at
22 that time, based on information that was available at that
23 time, should not necessarily be considered a sort of final
24 statements based on all information that would become
25 available to the company as the company is now aware of in

1 this litigation.

2 THE COURT: Okay. I'll think about it. But
3 nothing really turns on me resolving it now or tomorrow
4 morning. So let me think about it a little bit and I'll -- I
5 will -- I'll think about it, and I'll give you a ruling
6 tomorrow morning.

7 In terms of the instructions, I expect to issue the
8 draft instructions and verdict form some time today so you'll
9 have them. And tomorrow we'll do those two witnesses and
10 we'll have a charge conference some time tomorrow. I can't
11 tell you exactly what time because it all depends on how long
12 it takes. If possible, we'll do it right after we're done
13 with the two witnesses and the jury leaves. That will be the
14 best time to do it from my perspective, but if they go until
15 1:00, it depends a little bit on how long you go. And
16 otherwise, we'll just fit it in some time in the afternoon.
17 Okay? Anything else?

18 MR. HANNON: Nope.

19 THE COURT: Okay. Just to go over -- so you can
20 anticipate this, so my view on the order of argument in civil
21 cases is -- differs from the order of argument in state
22 court. I know in state court, in civil cases, in all cases,
23 I think at closing argument defendant goes first and
24 plaintiff goes last. I don't follow that model. I follow
25 what I view as the federal criminal model, which is plaintiff

1 has the burden of proof. I never -- great respect for the
2 state system, it makes a lot of -- they do it and it seems to
3 work well for them, but my view is plaintiff goes first,
4 defendant goes second, because plaintiff has the burden of
5 proof. A brief amount of time can be reserved by the
6 plaintiff. They both get an equal amount of time, can be
7 reserved for a rebuttal. So plaintiff, defendant, and
8 plaintiff can have a brief rebuttal. But it's not like to
9 redo the whole argument. It's supposed to be a brief
10 rebuttal. So just so you can anticipate, that's how I would
11 do it, how I do do it.

12 All right. Anything else?

13 MR. HANNON: Nope.

14 THE COURT: Okay. Have a good day. I'll see you
15 tomorrow morning. 8:45, unless I hear from you.

16 (Court in recess at 12:28 p.m.)
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CERTIFICATE OF OFFICIAL REPORTER

I, Rachel M. Lopez, Certified Realtime Reporter, in and for the United States District Court for the District of Massachusetts, do hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing pages are a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 29th day of March, 2023.

/s/ RACHEL M. LOPEZ

Rachel M. Lopez, CRR
Official Court Reporter